

Monitors' Eighth Report

Long-term Compliance Audit

Civil Number 99-5970(MLC)

In the
United States District Court,
for the District of New Jersey

United States Department of Justice
Civil Rights Division

State of New Jersey

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Independent Monitors' Eighth Report Period Ending March 31, 2003

1 Introduction

This document represents the eighth of an anticipated twelve "Independent Monitors' Reports" (IMRs) assessing the levels of compliance of the State of New Jersey (the State) with the requirements of a consent decree (decree) entered into between the State and the United States Department of Justice on December 30, 1999. This document reflects the findings of the monitoring team regarding compliance monitoring for the period October 1, 2002 through March 31, 2003. In order to complete the report in a timely fashion, monitoring activities were accomplished during the period May 19, 2003 through May 24, 2003.

The report is organized into three sections, identified below:

- Introduction;
- Compliance Assessment; and
- Summary.

The methodology employed by the monitors in developing the report, definitions used by the monitors, key dates for the monitoring process, and operational definitions of "compliance" are described in Section One of the report. Section Two of the report, "Compliance Assessment," includes the findings of the monitoring process implemented by the monitors and specific examples of compliance and non-compliance observed during the monitoring process. Section Three of the report, "Summary," provides an overall assessment of the State's performance for this reporting period.

1.1 Overall Status Assessment

Two specific dates accrue to deliverables for the decree: the date of entry of the decree (December 30, 1999), which times deliverables of the State, and the date of appointments of the independent monitors (March 30, 2000), which times deliverables for the compliance monitoring process.

1.2 Format for Compliance Assessment

The IMR is organized to be congruent with the structure of the consent decree. It reports on the State's compliance using the individual requirements of the decree. For example, the first section, the compliance assessment, deals with the requirements, in paragraph 26 of the decree, relating to a specific prohibition

against using “to any degree the race or national or ethnic origin of civilian drivers or passengers in deciding which vehicles to subject to any motor vehicle stop” (Decree at para 26). The following components of the decree are treated similarly. Compliance is classified as “Phase I,” and “Phase II,” with the definitions specified in Section 1.4, below.

1.3 Compliance Assessment Processes

1.3.1 Structure of the Task Assessment Process

Members of the monitoring team have collected data on-site and have been provided data, pursuant to specific requests, by the New Jersey State Police and the Office of State Police Affairs. All data collected were of one of two types. They were either collected by:

- Selection of a random or stratified random sample;
- Selection of all available records of that type.

Under no circumstances were the data selected by the monitoring team based on provision of records of preference by personnel from the New Jersey State Police or the Office of State Police Affairs. In every instance of selection of random samples, personnel or Office of State Police Affairs personnel were provided lists requesting specific data, or the samples were drawn directly by the monitors or by the monitoring team while on-site.

The performance of the New Jersey State Police on each task outlined in the consent decree was assessed by the monitoring team during the period ending October 30, 2002. The seventh independent monitors’ report was submitted to the court during the week of August 11, 2003.

All determinations of status for the New Jersey State Police are data based, and were formed by a review of the following types of documents:

- Official New Jersey State Police documents prepared in the normal course of business¹; and/or
- Electronic documents prepared by the State or components of state government during the normal course of business.

¹ For example, members of the monitoring team would not accept for review as documentation of compliance “special reports” prepared by state personnel describing their activities relating to a specific task. Instead, the monitoring team would review records created during the delivery or performance of that task.

1.3.2 Operational Definition of Compliance

For the purposes of this monitoring process, "compliance" consists of two components: Phase I compliance and Phase II compliance. Phase I compliance is viewed as the administrative piece of compliance. It entails the creation of policy, procedure, rule, regulation, directive or command to "comply" as required by the text of the decree. Phase II compliance deals with the implementation of a specific policy and requires that the policy must, by matter of evidence, be followed in day-to-day operations of the New Jersey State Police. It may entail the provision of training, supervision, audit, inspection, and discipline to achieve the implementation of a specific policy as designed. In commenting on the State's progress (or lack thereof) in achieving Phase II compliance for a specific task, the monitoring team may comment upon the efficacy of training, supervision, audit, inspection and discipline as applicable to that task.

Compliance levels for this monitoring process are reported both through a narrative description and a graphic description. The narrative describes the nature of the task requirement being assessed, a description of the methodology used to assess the task, and a statement of compliance status. It is critical to note, however, that a finding of non-compliance does not mean the State is engaging in inappropriate behavior. It simply means the State has not yet completed its efforts toward compliance. The graphic description depicts compliance status using a standard bar graph to indicate status in each compliance area. Each graphic consists of four segments, depicted below. The first segment depicts each of the anticipated 12 reporting periods (four quarterly reports for the first year and two reports for each following year). The second segment depicts the time allowed by the consent decree to complete the particular task. This time period is represented by the solid, dark blue bar . The third and fourth segments represent the time required to complete the task, and to achieve Phase I or Phase II compliance. A vertically patterned light blue bar  indicates that compliance was achieved in the time allotted. A diagonally patterned yellow bar  indicates that compliance was achieved at a later date than originally allocated in the decree, but that the delay, in the opinion of the monitors, does not seriously affect the State's eventual compliance with the decree. A horizontally patterned orange bar  indicates that compliance was achieved at a later date than originally allocated in the decree, and the delay *may* seriously affect the State's eventual compliance with the decree. A solid red bar  indicates expired time which is more than that allowed by the decree, and which, in the judgment of the monitors *does* seriously threaten the State's successful compliance with the decree. A task that was not, or could not be monitored is represented by a hollow bar .

1.3.3 Standards for “Compliance”

The parties have agreed to a quantitative standard for “compliance” to be used for assessing compliance for all critical tasks stipulated by the decree which can be quantified. On tasks for which quantitative data can be collected, e.g., the number of Motor Vehicle Stop Reports (MVSRs) that conform to the requirements of the decree, a standard of greater than 94 percent compliance is used. This means that at least 95 percent of the reports reviewed conformed to the requirements of the decree. This standard is widely used in social science, and is adapted by mutual agreement for this project.

1.3.4 Compliance with a Hypothetical Task

<i>Task nn</i>	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

This graphic is a hypothetical depiction of a task in which the State has been assessed to be in Phase I compliance in the first reporting period, and in which Phase II compliance has not been attained (but which does not affect the State’s eventual compliance).

1.4 Flow of the Monitoring Process

Compliance audits and monitoring processes typically consist of two phases. The first phase focuses on issues of “policy compliance:” the development of policies, rules, regulations and directives to comply. In many cases, the processes required of the agency are new enough to preclude an early evaluation of Phase II compliance processes designed to ensure day-to-day implementation of the requirements. The second phase, represented by this report and future reports, focuses on issues of operational compliance— institutionalizing change into the day-to-day operations of the agency.

1.5 Progress toward Compliance

During the last reporting period, the State has continued to make progress toward compliance in several areas, including training; supervision; Development of a MAPPS performance management system; inspections, audit and quality control; and investigation of internal and citizens’ complaints. Each of these areas is discussed briefly below.

1.5.1 Training

The State has continued to provide required training (Fourth Amendment, ethics and cultural diversity) to pre-service (recruit) and in-service personnel. The Academy has developed and implemented a new table of organization that, the monitors believe, will improve service delivery and management practices. Training has been delivered on a newly developed computerized tracking system for misconduct investigations. In addition, updated and upgraded supervisory training, regarding supervision and review practices related to Motor Vehicle Stop Reports (MVSRs) and Motor Vehicle Recorder (MVR) operation has been developed and delivered to 100 supervisors within the Division of State Police (Division). Additional training was delivered this period to Division Field Operations personnel regarding consent-decree related motor vehicle stop procedures.

1.5.2 Supervision

Supervisory systems have been revised within the Division this reporting period, with the creation of a group of 100 Field Operations sergeants whose responsibility it is to review MVSRs, MVRs and supporting documentation to ensure that law enforcement personnel adhere to the requirements of State Police procedures and the related requirements of the consent decree.

1.5.3 MAPPS Development

The State continues to work toward implementation of the long-delayed MAPPS performance management system. Three MAPPS modules are now fully functional (Stops, Complaints and Performance). In addition, the State has completed the revised implementation plan for MAPPS and submitted this plan to the monitors and the Department of Justice for approval. The document was submitted after the end of this reporting period, however. *Beta* sites, designed to field test MAPPS components, have been expanded by two additional sites.

1.5.4 Inspections, Audit and Quality Control

The State continues an aggressive quality control program for Office of Professional Standards investigations and for Field Operations motor vehicle stop systems. Inspections and Audit personnel from Field Operations and the Office of State Police Affairs continue to review MVSR and MVR elements for conformance to the requirements of the consent decree.

1.5.5 Citizens' Complaints

The State continues to staff and manage its Office of Professional Standards with an eye toward ensuring quality investigations of internal and citizens' complaints. This includes audits of persons subjected to traffic stops and audits of completed OPS investigations. No new initiatives have been developed in this area; however, performance has been in compliance for several reporting periods.

2 Assessment of Compliance

2.1 Methodology

The monitors assessed the State's compliance using practices agreed upon between the parties and the monitors. "Compliance" was assessed as Phase I or Phase II (see section 1.3.2, above).

The following sections of the Eighth Monitors' Report contain a detailed assessment of the degree to which the State has complied with the 97 tasks to which it agreed on December 30, 1999. The reporting period for this report deals with actions of the State to comply with the decree between October 1, 2002 and March 31, 2003.

2.2 Compliance with Task 26: Prohibition from Using Race-Ethnicity in Decision Making

Task 26	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 26 stipulates that:

26. Except in the "suspect-specific" ("be on the lookout" or "BOLO") situation described below, state troopers shall continue to be prohibited from considering in any fashion and to any degree the race or national or ethnic origin of civilian drivers or passengers in deciding which vehicles to subject to any motor vehicle stop and in deciding upon the scope or substance of any enforcement action or procedure in connection with or during the course of a motor vehicle stop. Where state troopers are seeking to detain, apprehend, or otherwise be on the lookout for one or more specific suspects who have been identified or described in part by race or national or ethnic origin, state troopers may rely in part on race or national or ethnic origin in determining

whether reasonable suspicion exists that a given individual is the person being sought.

Methodology

During the eighth site visit, members of the monitoring team conducted structured on-site reviews of the operations of ten New Jersey State Police Road Stations. These reviews were conducted of operations reported during the dates of October 1, 2002 through March 31, 2003, inclusive (the last month for which electronic data were available). The team conducted these reviews of the Bordentown, Allenwood, Kingwood, Ft. Dix, Hightstown, Wilburtha, and Red Lion Stations in Troop C, and the Bass River, Bloomfield and Holmdel stations in Troop E. As part of this review, members of the monitoring team collected and or reviewed course-of-business data on 225 New Jersey State Police motor vehicle stop incidents. In addition, the team reviewed video recordings of 192 motor vehicle stop incidents involving law enforcement procedures stipulated in the decree. Supporting documentation was reviewed for each of the motor vehicle stops assessed by the monitoring team. The following paragraphs describe the monitoring team's methodology for data collection and analysis of the structured site visits. These descriptions apply to the assessment of compliance of various tasks required by the decree, and are critically important in the assessment of tasks 26 through 36.

Data Requests

Prior to its site visits in May, 2003, the monitoring team requested of the State electronic and hard-copy data regarding State Police operations. These data requests included the following electronic-format data, in addition to other non-electronic data requests:

- Electronic data for all motor vehicle stop activity for the stations selected relating to an incident in which personnel engaged in one of the eight articulated post-stop law enforcement procedures of interest to the decree, i.e., request for permission to search; conduct of a consensual or non-consensual search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force.
- Electronic data for all trooper-initiated motor vehicle stop "communications center call-ins" for the stations selected, including time of completion of the stop and results of the stop.

- The monitoring team also requested copies of documentation created for all consent search requests, canine deployments, and incidents involving use or force by New Jersey State Police personnel statewide, where such events took place in conjunction with a motor vehicle stop, as defined by the decree.

Based on these data requests, the monitoring team was provided with all motor vehicle stop records for Troops C and E (taken from the State’s motor vehicle stop report entry system) referred to by the State as motor vehicle stop “event” records. Computer Assisted Dispatch System (CADS) records were also requested by the monitors for all motor vehicle stop activity for the selected stations for the active dates of the eighth site visit.

Data reviewed by the monitoring team for the eighth site visit included the types of incidents noted in Table One, below.

Motor Vehicle Stops

Based on the data provided by the State, the monitoring team selected specific law enforcement activities for further assessment and analysis. The methodology for selecting these law enforcement activities consisted of identifying all post-stop law enforcement procedures of interest to the decree, i.e., request for permission to search; conduct of a consensual or non-consensual

Table One: Incidents Reviewed by Monitoring Team
For Eighth Site Visit

Type of Activity	Report Reviews	Tape Reviews
Selected MVS Incidents	225	192
MVS Involving Consent Search	9	7
MVS Involving Canine Deployment	13	8
MVS Involving Use of Force	20	15
Probable Cause Searches of Vehicles	40	31
Probable Cause Searches of Persons	92	77

search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the

occupants of the vehicle; or use of deadly, physical, mechanical or chemical force, for each road station assessed. These events were identified using the CAD records provided by the State.

Incidents selected for review by the monitoring team were subjected to three types of assessment.

- Events that were reviewed using reported data, i.e., motor vehicle stops which resulted in post-stop activities of interest to the decree, and that were reviewed by comparing the electronic data to data included in motor vehicle stop reports and supporting documents (patrol logs, summonses, consent to search reports, etc.), referred to as Type I data;
- Events that were reviewed using both reported data **and** by reviewing recordings of the motor vehicle stop in question, referred to as Type II data; and
- Events that were reviewed simply by viewing video recordings events following a selected motor vehicle stop incident, using a procedure developed to ensure that all events, which should be reported by MVSR, are actually reported, referred to as Type III data.

These records indicated three events that resulted in a consent search request from the stations selected for review this reporting period, and six events from other stations resulting in consent search requests, for a total of nine consent search requests.² All incidents involving consent search requests were assessed by reviewing New Jersey State Police reports documenting the consent and execution of the search. In addition, all three consent searches occurring within selected stations were subjected to both documentation and video recording review by the monitoring team. A total of four consent search request incidents from other Troops were reviewed as well. Similarly, the New Jersey State Police deployed drug detection canine units 13 times during the reporting period. Reports from all 13 of these events were reviewed by the monitoring team, and videos from eight of those events were also reviewed by the monitoring team. Force reportedly was used by New Jersey State Police personnel in 20 motor vehicle stop incidents during the reporting period, and reports from each of these incidents were reviewed by the monitoring team. Video tapes of 15 of the use of force events were reviewed by members of the monitoring team during the eighth site visit.

² Two consent requests were declined by drivers during the reporting period.

The reader should note that members of the monitoring team reviewed all Motor Vehicle Stop Reports and associated documentation (patrol charts, citations, arrest reports, DUI reports, etc.) for the following New Jersey State Police activities:

- All consent search requests;
- All uses of force; and
- All deployments of canine units.

In addition, obviously, video tapes of *some* these events also were reviewed by members of the monitoring team during their seventh site visit, as noted above. These incidents and procedures were subjected to one (or more) of three types of reviews performed by the monitoring team. The types of reviews used by the monitoring team are described below, and a summation of the types of review performed by station, are depicted in Table two, below.

Type I Event Reviews

A Type I event review consisted of reviewing all available hard-copy and electronic documentation of an event. For example, an event review could consist of reviewing the motor vehicle stop report, associated records in the patrol log, a supporting consent to search report, and associated summonses or arrest records. Each post-stop event consisting of law enforcement procedure of interest to the decree, i.e., request for permission to search; conduct of a consensual or non-consensual search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force was subjected to a structured analysis using a form developed by the monitoring team. Problems with the reporting process were noted and tallied using this form. These data were shared with the New Jersey State Police, and clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation.

Type II Event Review

A Type II event review consisted of reviewing the associated video tape for a given motor vehicle stop event, and comparing the actions noted on the tape with the elements reported in the official documents related to the event. These data were collected using a form developed by the monitoring team. These data were shared with the New Jersey State Police, and clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation.

Type III Event Review

In order to provide a probability that the monitors would note any events, which **should** have been reported, based on the requirements of the decree, but were not reported as required, the monitoring team in the past had developed a protocol that sampled events after a selected event at a road station. For example, if a motor vehicle stop incident, which occurred at 3am, were selected for review, six events recorded occurring immediately after that were also eligible for review. All events selected for a Type III (video-based) review in the past, had been subjected to a structured review using a form developed by the monitoring team. Based on six periods of acceptable performance, no Type III reviews were conducted this period.

Table Two: Distribution of Monitoring Events

Station	Type I Reviews	Type II Reviews	Type III Reviews
1 Bordentown	17	17	7
2 Allenwood	21	18	24
3 Kingwood	13	13	20
4 Ft. Dix	18	17	44
5 Hightstown	13	13	24
6 Wilburtha	27	27	12
7 Red Lion	17	17	34
8 Bass River	36	27	16
9 Bloomfield	11	11	0
10 Holmdel	15	16	10
Other	38	16	0
	225	192	191

Status

The monitoring team's review of New Jersey State Police SOPs indicates that the agency remains in Phase I and Phase II compliance with Task 26. The monitors continue to review State Police activity for processes that indicate that relatively minor infractions serve as the only precursory violation resulting in requests for consent searches, requests to exit the vehicle, frisks, or other law enforcement procedures. The vast majority of all searches of persons and vehicles conducted by members of the State Police are "non-discretionary," e.g., searches incidental to arrest, with a total of 168 of the 197 searches of persons being conducted "incidental to arrest." Of the 196 searches of vehicles reviewed this reporting period, 144 were "non-discretionary" searches incidental to arrest. The monitors

commend the State for improving the quality and tenor of the “average” traffic stop observed by the monitoring team during the past three reporting periods.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.3 Compliance with Task 27: Monitor and Evaluate Implementation of the Motor Vehicle Stop Criteria

Task 27	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 27 stipulates that:

27. The State Police has adopted a protocol captioned "F-55 (Motor Vehicle Stops)," dated December 14, 1999, which establishes criteria to be followed by state troopers in selecting which vehicles to stop for violation of state motor vehicle laws. This protocol includes the nondiscrimination requirements set forth in ¶ 26 and has been approved by the United States in so far as the protocol identifies practices and procedures required by the Decree. The state shall implement this protocol as soon as practicable. The state shall monitor and evaluate the implementation of the motor vehicle stop criteria and shall revise the criteria as may be necessary or appropriate to ensure compliance with ¶¶ 26 and 129. Prior to the implementation of any revised criteria, the state shall obtain approval from the United States and the Independent Monitor.

Methodology

Compliance with this task was assessed using the Motor Vehicle Stop Report and video review outlined in section 2.2 above. The monitors have noted that a new level of supervision has been added to the New Jersey State Police road stations during this site visit. New Jersey State Police Motor Vehicle Stop Reports are now being reviewed by “dedicated” MVSR review personnel, sergeants assigned to road stations who are tasked with reviewing selected MVSRs for quality. The State envisions these additional first-line supervisors as a supplement to, not a supplantation of, existing first-line supervisors. In addition, the State continues

to provide audit and quality control services through the Office of State Police Affairs.

Problems continue to surface in this new system of supervision, however. Members of the monitoring team have noted that field supervisors were present in only 10.4 percent of all monitored activity this reporting period, down from 12.6 percent last period. While there were some exceptional success stories for supervision this reporting period, supervisory review of video tapes of motor vehicle stops has failed to note some rather significant errors on the part of troopers in the completion of their motor vehicle stop reports.

See section 2.2, above, for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Status

A review of the polices developed, the training provided to date and the pending MAPPS process indicates that the agency is in Phase I compliance with the requirements of this task. The State continues to review, independently of the monitors, Motor Vehicle Stop Reports (MVSRs) submitted by Division personnel, and continues to note deficiencies in operationalization of the training provided. Retraining to address these deficiencies has been delivered. Training in use of the MAPPS has been delayed pending full development of the MAPPS system. Full compliance with this task cannot be monitored until the MAPPS is brought on-line. For example, the following issues were noted with 30 MVSRs (from among the 225 reviewed this reporting period), which were, apparently, not noted by supervisory personnel reviewing the motor vehicle stops. From those 225 events, the monitors found 30 that exhibited some form of reporting problem that should have been noted by supervisory review, but was not. These included:

- Seven troopers articulated insufficient reason to suspect drivers or passengers were armed in their MVSRs detailing frisks of drivers or passengers of vehicles.
- Eleven troopers submitted MVSRs with one or more substantial errors in the reports, which conflicted with events observed on the in-car video tapes reviewed by the monitoring team.
- Twenty-Five troopers violated New Jersey State Police reporting or in-field practice procedures (ranging from failure to call-in to the communications center prior to conducting a search (19) failure to activate the in-car MVR when required (3), failure to call-in the motor vehicle stop prior to approach (1), failure to record the interaction through to completion (2) and supervisors reviewing

these reports and MVRs failed to take note of the procedural errors.³

This constitutes an error rate of 30 of 225, or 13.3 percent, outside the allowable five percent error rate for this task. The reader should note, however, a *qualitative difference* in these omissions. Since late in the sixth reporting period, supervisory personnel have been required to review *all* consent search, uses of force, and canine deployment reports. Errors in those activities continue to drop this period. Remaining errors (State Police procedural violations, and less problematic consent decree violations—activation times for video and audio recordings, for example) are less troublesome than poor consent search request practices, arbitrary deployment of canines, and problematic uses of force. While a continuing problem exists of failure to notify communications prior to conducting a consent search or a non-consensual search, the monitors have found that, for the most part, the searches are being conducted properly. It is the process of *notification* that is not being followed.

Not all in-field errors were missed by supervisory personnel, however. In fact, the monitoring team has noted a dramatic increase in supervisory review processes, and resulting performance notices—both positive and negative—based on those reviews. Several of these reviews indicated to the monitoring team that the New Jersey State Police are beginning to note many procedural errors prior to the monitoring team's noting them. A positive step indeed. A total of 124 reporting errors were noted by supervisory personnel this reporting period (from among the reports and video recordings reviewed by the monitors).

It appears that 30 of the 225 stop reports receiving a Type I or Type II review contained some type of reporting error that should have been noted by supervisory review. None of these 30 resulted in supervisory notice (prior to receipt by the State of the incidents for review by the monitors), constituting a "failure rate" of 30 of 225, or 13.3 percent⁴. The State had a smaller error rate during the fifth, sixth and seventh reporting periods, but these error rates still exceeded five percent. As a result, the State is found to be out of compliance with Task 27 for this reporting period.

³ These numbers total more than 30 due to the fact that multiple troopers made more than one error in some MVRs.

⁴ The monitors have advised the parties that, in an effort to encourage proactive supervisory review, if a supervisory review notes and remedies a problematic procedure, prior to the time the monitors notify the state of the stop incidents they will monitor for the site visit, the event will be noted in the monitors' report, but not counted as a "error."

Compliance

Phase I: In Compliance
Phase II: Not In Compliance

2.4 Compliance with Task 28: Request for Consent to Search only upon Reasonable Suspicion

Task 28	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	Blue bar											
Phase II	Striped bar											

Task 28 stipulates:

28. In order to help ensure that state troopers use their authority to conduct consensual motor vehicle searches in a nondiscriminatory manner, the State Police shall continue to require: that state troopers may request consent to search a motor vehicle only where troopers can articulate a reasonable suspicion that a search would reveal evidence of a crime; that every consent search of a vehicle be based on written consent of the driver or other person authorized to give consent which precedes the search; that the scope of a consent search be limited to the scope of the consent that is given by the driver or other person authorized to give consent; that the driver or other person authorized to give consent has the right to be present during a consent search at a location consistent with the safety of both the state trooper and the motor vehicle occupants, which right can only be waived after the driver or other person authorized to give consent is advised of such right; that the driver or other person authorized to give consent who has granted written consent may orally withdraw that consent at any time during the search without giving a reason; and that state troopers immediately must stop a consent search of a vehicle if and when consent is withdrawn (except that a search may continue if permitted on some non-consensual basis).

Methodology

See section 2.2, above, for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Status

The monitoring team reviewed a total of nine law enforcement actions involving consent requests conducted during the eighth report's operational dates. Two of these nine involved a consent search request that was declined, and that resulted in discontinued processes upon the drivers' declination. A description of consent request events, by race of driver, is presented in Table Three below. Tables Three through Five depict data from the 225 incidents reviewed this reporting period by the monitoring team. "Number of Drivers" depicts the number of drivers, by race, in the 225 incidents. The number in parentheses in this column depicts the *percentage* of drivers in the total sample, by race. Thus, for Tables Three through Five, there were 130 white drivers of the total of 225 drivers involved in motor vehicle stops reviewed by the monitoring team this period, constituting 57.8 percent of all drivers in the sample. The next column, "Number" depicts the number of law enforcement procedures observed in the motor vehicle stops reviewed. For example, Table Three depicts six consent requests of white drivers, no requests of black drivers, three requests of Hispanic drivers, and no requests of drivers of "other" race/ethnicity. The last column, "Percent" depicts the percent of drivers of a given race or ethnicity, which were, subjected to a given law enforcement procedures. This column will not total to 100 percent. The reviews depicted in this table constituted documentation and/or video tape reviews.

The reader should note that the State has reduced substantially the number of consent search requests, from a high of 59 the fifth reporting period to only nine this period. As such, the numbers reported in Table Three are not statistically meaningful when reported *viz a viz* race and ethnicity.

All of the nine consent searches were completed in conformance with the requirements of the consent decree. Supervisors were present in only two consent searches this reporting period. The reader should note the dramatic reduction in consent requests made by members of the New Jersey State Police, from a high of 59 in the fifth reporting period.

An error rate of none of nine consent searches constitutes zero percent, falling well within the >94 percent compliance rate agreed to by the parties as the standard for critical tasks outlined by the consent decree.

Table Three—Consent Request Activity

Race/Ethnicity	Number of Drivers	Number of Requests for Search ^{5,6}	Percent Consent Request by Race/Ethnicity
White	130(57.8%)	6	4.6
Black	56(24.9%)	0	0
Hispanic	35(15.6%)	3	8.6
Other	4(17.8%)	0	0
Total	225	9	--

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.5 Compliance with Task 29a: Recording Requirements for Motor Vehicle Stops

Task 29a	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 29a stipulates that:

29. Motor Vehicle Stop Data

a. The State has adopted protocols (captioned F-55 (Motor Vehicle Stops) dated 12/14/99; C-22 (Activity Reporting System), F-3 (Patrol Procedures), F-7 (Radio Procedures), F-19 (MVR equipment), F-31 (Consent Searches), and a Motor Vehicle Stop Search Report dated 12/21/99; and a Property Report (S.P. 131 (Rev. 1/91)) that require state troopers utilizing vehicles, both marked and unmarked, for patrols on roadways to accurately record in written reports, logs, radio communications, radio recordings and/or video recordings, the following information concerning all motor vehicle stops:

- 1. name and identification number of trooper(s) who initiated the stop;**
- 2. name and identification number of trooper(s) who actively participated in the stop;**

⁵ Two consent search requests were refused.

⁶ One white male and one Hispanic male drivers refused consent.

3. date, time, and location of the stop;
4. time at which the stop commenced and at which it ended;
5. license number/state of stopped vehicle;
- 5A. description of stopped vehicle;
6. the gender and race/ethnicity of the driver, and the driver's date of birth if known;
7. the gender and race/ethnicity of any passenger who was requested to exit the vehicle, frisked, searched, requested to consent to a vehicle search, or arrested;
8. whether the driver was issued a summons or warning and the category of violation (i.e., moving violation or non-moving violation);
- 8A. specific violations cited or warned;
9. the reason for the stop (i.e., moving violation or non-moving violation, other [probable cause/BOLO]);
10. whether the vehicle occupant(s) were requested to exit the vehicle;
11. whether the vehicle occupant(s) were frisked;
12. whether consent to search the vehicle was requested and whether consent was granted;
- 12A. the basis for requesting consent to search the vehicle;
13. whether a drug-detection canine was deployed and whether an alert occurred;
- 13A. a description of the circumstances that prompted the deployment of a drug-detection canine;
14. whether a non-consensual search of the vehicle was conducted;
- 14A. the circumstances that prompted a non-consensual search of the vehicle;
15. whether any contraband or other property was seized;
- 15A. a description of the type and quantity of any contraband or other property seized;
16. whether the vehicle occupant(s) were arrested, and if so, the specific charges;
17. whether the vehicle occupant(s) were subjected to deadly, physical, mechanical or chemical force;
- 17A. a description of the circumstances that prompted the use of force; and a description of any injuries to state troopers and vehicle occupants as a result of the use of force;
18. the trooper's race and gender; and
19. the trooper's specific assignment at the time of the stop (on duty only) including squad.

Methodology

See section 2.2 above for a description of the methodology used to assess the State's compliance with this task.

Status

The review of State Police policies, forms, training, data entry systems, and CADS processes indicates that the New Jersey State Police are in Phase I compliance with the requirements of Task 29a. Effective policies and forms requiring compliance with the reporting requirements of the task have been written, disseminated and implemented into the State Police training process. Development of training for supervisors in the process of scrutinizing motor vehicle stop reports, and systems to facilitate that review were completed during this reporting period.

Use of the Motor Vehicle Stop Report was monitored for 225 incidents involving a post-stop law enforcement activity of interest to the decree. Use of force, non-consensual searches and deployment of canines received special attention from the monitoring team. The results of these reviews are depicted in Tables Four, Five and Six, below.

Use of Force

New Jersey State Police personnel reported using force 20 times during the reporting period. The use of force rate for white drivers in the sample was 6.9 percent. For black drivers in the sample, the use of force rate was 12.5 percent, and for Hispanic drivers in the sample, 11.4 percent. Members of the monitoring team reviewed reports of all use of force by personnel from the New Jersey State Police. All of the reports were included as part of the MVSR reporting process. Members of the monitoring team found no problems with the reporting process.⁷ All use of force narratives outlined specific reasons why force was necessary and identified the nature of the force used. Members of the monitoring team also reviewed five of 20 video tapes of a use of force incidents, and found no use of force events that were not accurately reflected in the use of force narrative.

Table Four depicts data from the 225 incidents reviewed this reporting period by the monitoring team. "Number of Drivers" depicts the number of drivers, by race, in the 294 incidents. The number in parentheses in this column depicts the *percentage* of drivers in the total sample, by race. Thus, for Tables Three

⁷ Members of the monitoring team assessed use of force reports and incidents for reasonable application of force and compliance with elements 17 and 17a of this requirement of the decree.

through Five, there were 130 white drivers of the total of 225 drivers involved in motor vehicle stops reviewed by the monitoring team this period, constituting 57.8 percent of all drivers in the sample. The next column, "Number" depicts the number of law enforcement procedures observed in the motor vehicle stops reviewed. For example, Table Four depicts nine incidents of use of force against white drivers (or occupants), seven incidents of use of force against black drivers (or occupants), four incidents of uses of force against Hispanic drivers, and no uses against force of drivers of "other" race/ethnicity. The last column, "Percent" depicts the percent of drivers of a given race or ethnicity which were subjected to a given law enforcement procedure. This column will not total to 100 percent. The reviews depicted in this table constituted documentation and/or video tape reviews.

Table Four: Use of Force Activity

Race/Ethnicity of Drivers	Number of Drivers	Incidents of Use of Force	Percent by Race/Ethnicity
White	130(57.8%)	9	6.9
Black	56(24.9%)	7	12.5
Hispanic	35(15.6%)	4	11.4
Other	4(17.8%)	0	--
Total	225	20	na

Canine Deployments

The New Jersey State Police deployed drug detection canine units 13 times during the reporting period. Members of the monitoring team reviewed all available documentation for each canine deployment, and reviewed video tapes of five canine deployments. No reporting problems were noted in any of the 13 deployments, and the five video taped incidents reviewed indicated that the written reports accurately reflected actual events. All canine deployments were professionally executed and were executed for legitimate cause.

Table Five depicts data from the 225 incidents reviewed this reporting period by the monitoring team. "Number of Drivers" depicts the number of drivers, by race, in the 225 incidents. The number in parentheses in this column depicts the *percentage* of drivers in the total sample, by race. Thus, for Tables Three through Five, there were 130 white drivers of the total of 225 drivers involved in motor vehicle stops reviewed by the monitoring team this period, constituting 57.8 percent of all drivers in the sample. The next column, "Number" depicts the number of law enforcement procedures observed in the motor vehicle stops

reviewed. For example, Table Five depicts five canine deployments for white drivers, five canine deployments for black drivers, three canine deployments for Hispanic drivers, and no canine deployments for drivers of "other" race/ethnicity. The last column, "Percent" depicts the percent of drivers of a given race or ethnicity which were subjected to a given law enforcement procedure. This column will not total to 100 percent. The reviews depicted in this table constituted documentation and/or video tape reviews.

Table Five: Canine Deployments

Race/Ethnicity of Drivers	Number of Drivers	Canine Deployments	Percent by Race/Ethnicity
White	130(57.8%)	5	3.8
Black	56(24.9%)	5	8.9
Hispanic	35(15.6%)	3	8.5
Other	4(17.8%)	0	na
	225	14	na

Non-Consensual Searches

Members of the New Jersey State Police conducted 190 non-consensual searches of vehicles among the 225 reports reviewed by the monitoring team during the reporting period. White drivers' vehicles constituted 57.7 percent of the "searched population," while black drivers' vehicles constituted 25.0 percent, and Hispanics drivers' vehicles constituted 15.3 percent of the searched vehicle population. Members of the monitoring team reviewed all 190 of these non-consensual searches of vehicles. Only one of these non-consensual searches was problematic.

Table Six depicts the results, by race/ethnicity and type of non-consensual vehicle search for the sample of 225 incidents reviewed by the monitoring team this reporting period. Table Six depicts the types of non-consensual searches, by race/ethnicity of the 190 incidents involving a non-consensual vehicle search. For example, 108 white drivers were subjected to non-consensual searches during this reporting period, with 86 white drivers searched incidental to arrest, 20 subjected to probable cause searches, etc. Numbers in parentheses reflect the percentage of type of search, by race. For example, the 86 searches incidental to arrest constitute 79.6 percent of all searches of white drivers. The reviews depicted in this table constituted documentation and/or video tape reviews.

Table Six: Reasons for Non-Consensual Searches of

Drivers' Vehicles, By Race of Driver

Reason for Search	White # (%)	Black # (%)	Hispanic # (%)	Other # (%)
Incidental to Arrest	86(79.6)	35(71.4)	19(10.6)	4(100)
Probable Cause	20(25.9)	12(24.5)	8(27.6)	0
Plain View	0	1(2.0)	1(3.4)	
Proof of Ownership	2(1.9)	1(2.0)	1(3.4)	0
Total	108(100)	49(100)	29(100)	4(100)

Of the 190 MVSRs reviewed which entailed non-consensual searches of vehicles, members of the monitoring team found problems with one. This search, which was designated as incidental to arrest, was actually conducted *before* the arrest was made, and reports the reason for the arrest in two different ways on the MVSR and the Investigation Report. An error rate of one of 190 events equals 0.05 percent, within the acceptable level of error.

Table Seven depicts probable cause non-consensual search activity by race, for probable cause searches, and Table Eight depicts "incidental to arrest" searches by race.

Table Seven: Probable Cause Searches, by Race/Ethnicity

Race/Ethnicity of Drivers	Number of Drivers	Probable Cause Searches	Percent by Race/Ethnicity
White	130(57.8%)	20	15.4
Black	56(24.9%)	12	21.4
Hispanic	35(15.6%)	8	22.9
Other	4(17.8%)	0	0
	225	40	na

Table Eight: Incidental to Arrest Searches, by Race/Ethnicity

Race/Ethnicity of Drivers	Number of Drivers	Searches Incidental to Arrest	Percent by Race/Ethnicity
White	130(57.8%)	20	15.4
Black	56(24.9%)	12	21.4
Hispanic	35(15.6%)	8	22.9
Other	4(17.8%)	0	na
	225	9	

In all, members of the monitoring team noted 30 separate incidents in which procedural, reporting, or review issues were evident (see section 2.3, above, for a complete listing of these motor vehicle stop incidents). A total of 124 other errors were noted and corrected by retraining prior to the monitor's noting the behavior. Forty-nine errors of 225 events yields an error rate of 13.3 percent, outside the allowable margin of error agreed to by the parties. This is the third consecutive quarter in which error rates have exceeded the allowable five percent.

Compliance

Phase I: In Compliance
Phase II: Not In Compliance

2.5.1 Compliance with Task 29b: Expedious Implementation of Motor Vehicle Stop Criteria

Task 29b	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 29b stipulates that:

b. The protocols listed in ¶29(a) include, inter alia, the procedures set forth in ¶¶ 30, 31, 32, and 33 and have been approved by the United States insofar as the protocols identify practices and procedures required by this Decree. The state shall implement these protocols as soon as practicable.

Methodology

See Section 2.2, above for a discussion of the methodology for assessing compliance with this task.

Status

The review of State Police policies, forms, training, records systems, data entry systems, and CADS processes indicates that the New Jersey State Police are in Phase I compliance with the requirements of Task 30. Effective policies and forms requiring compliance with the reporting requirements of the task have been written, disseminated and implemented into the training process. Development of training for supervisors in the process of scrutinizing motor vehicle stop reports and associated documentation, and systems to facilitate that review have been completed.

The electronic CADS records reviewed by the monitors all included the names of individuals subjected to post-stop law enforcement procedures of interest to the decree, i.e., request for permission to search; conduct of a consensual or non-consensual search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force. All of these records included the race of the individual subjected to a post-stop law enforcement procedure of interest to the decree. All of the records included a CADS incident number. In addition, all had the date of the stop, time of the stop, time the stop cleared, and reason for the stop. All records included the gender and race of the individuals occupying the vehicle, whether a summons or warning was issued (and the category of the violation), and the reason for the motor vehicle stop.

The reader should also note that the data collected in the traffic stop reporting process is among the most robust in the nation. The data analyzed for this reporting period included only those data generated by the electronic reporting process. Accuracy rates for these data, overall, exceeded 99 percent, well within the acceptable margin for error for this task. The earliest available electronic data in the State's database, provided to the monitors, was September 2, 2000. In the opinion of the monitors, this qualifies as "expeditious" implementation. None of the compliance issues identified above are attributable to a delay in implementation.

Compliance

Phase I:	In Compliance
Phase II:	In Compliance



Task 30 stipulates that:

30. Communication Center Call-In's for Motor Vehicle Stops. The primary purpose of the communications center is to monitor officer safety. State troopers utilizing vehicles, both marked and unmarked, for patrols on roadways shall continue to document all motor vehicle stops, inter alia, by calling in or otherwise notifying the communications center of each motor vehicle stop. All motor vehicle stop information enumerated in ¶ 29(a) that is transmitted to the communications center by state troopers pursuant to protocols listed in ¶ 29(a), and as revised pursuant to ¶ 29(d) and (e), shall be recorded by the center by means of the center's Computer Aided Dispatch system or other appropriate means.

Methodology

See section 2.2, above, for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Status

New Jersey State Police SOPs relating to the call-in of motor vehicle stops meet the requirements of the consent decree. In addition, training regarding motor vehicle stops is reasonably designed to affect the necessary behavior on the part of troopers conducting traffic stops. The recent revisions to New Jersey State Police SOPs noted above have formed the backbone for supervisory review and control of these processes, and when fully implemented, should further improve agency performance in these areas.

A sample of 76,523 electronic CAD records reflecting motor vehicle stops conducted by New Jersey State Police personnel, was reviewed by the monitoring team. These records reflected a > 99 percent conformance to requirements for call-ins to the communications center established by the decree. In addition, 192 video recordings and documentation from 225 vehicle stops were reviewed this quarter, as were supporting documents, such as CAD abstracts, etc. Compliance with this task was assessed using both the electronic, video, and paper documentation. All data required by paragraphs 29 a, are recorded within the CADS records for vehicle stops, or within associated MVSRS.

Of the 192 video recordings reviewed by the monitors, two failed to activate recording upon signal to stop, one had no call-in prior to approach, one failed to provide a description of the vehicle, two failed to provide a description of occupants, two failed to provide a reason for the stop, and three failed to continue until completion of the stop. An error rate of nine incidents of 192 constitutes 4.7 percent, within the allowable margin of error.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.6.1 Compliance with Task 30a: Notice of Call-In at Beginning of Stop

Task 30a	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 30a stipulates that:

a. The initial call shall be made at the beginning of the stop before the trooper approaches the stopped vehicle, unless the circumstances make prior notice unsafe or impractical, in which event the state trooper shall notify the communications center as soon as practicable. The State Police shall continue to require that, in calling in or otherwise notifying the communications center of a motor vehicle stop, state troopers shall provide the communications center with a description of the stopped vehicle and its occupants (including the number of occupants, their apparent race/ethnicity, and their apparent gender). Troopers also shall inform the communications center of the reason for the stop, namely, moving violation, non-moving violation, or other.

Methodology

See section 2.2, above, for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Status

A sample of 76,523 electronic CAD records was assessed for existence of a “stop time.” All records had the time of stop recorded as part of the CAD record. In addition, members of the monitoring team also reviewed 192 video tapes of motor vehicle stops to assess the time of the call in. Data indicate that 100 percent of all stops in were assigned an incident number; 99.9 percent list the primary trooper’s badge number; 99.9 percent list the race and gender of the primary trooper; 99.8 percent list the driver’s race and gender; 99.9 percent list a reason for the stop and a final disposition. The State is in compliance with this task. Of the 192 stop records reviewed by the monitoring team, only three indicated that the MVR began after the trooper approached the vehicle. This constitutes an error rate of 1.6 percent.⁸

Phase I: In Compliance
Phase II: In Compliance

2.6.2 Compliance with Task 30b: Notice Prior to Search

Task 30b	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 30b stipulates that:

b. state troopers shall notify the communications center prior to conducting a consent search or nonconsensual search of a motor vehicle, unless the circumstances make prior notice unsafe or impractical.

Methodology

See Section 2.2, above, for a description of the methodology used to assess compliance with this task.

Status

⁸ More than three events were noted, but all others were the result of technical (audio or video) difficulties inherent in in-car monitoring systems.

Of the 190 search events reported (and reviewed by video tape), 124 were called in to New Jersey State Police communications prior to the initiation of the search. This constitutes an error rate of 34.7 percent, beyond the >94 percent established as the criterion for this task. Supervisory reviews of motor vehicle stop activity are beginning to note these failures in the field (although it is clear that not all supervisors are aware of the operationalization of the requirement). Substantial work still remains to be done, obviously, although improved supervisory review processes have improved performance in this area this reporting period. Of the 66 cases in which law enforcement personnel failed to call in to dispatch prior to conducting a search of a vehicle, supervisory personnel failed to note this error in 13 cases, constituting a 19.6 rate of error for supervisor review of MVSRs.

Compliance

Phase I: In Compliance
 Phase II: Not in Compliance

2.6.3 Compliance with Task 30c: Call-Ins Upon Completion of Stop

Task 30c	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 30c stipulates that:

c. At the conclusion of the stop, before the trooper leaves the scene, the trooper shall notify the communications center that the stop has been concluded, notify the center whether any summons or written warning was issued or custodial arrest was made, communicate any information that is required to be provided by the protocols listed in paragraph 29(a) that was not previously provided, and correct any information previously provided that was inaccurate. If circumstances make it unsafe or impractical to notify the communications center of this information immediately at the conclusion of the stop, the information shall be provided to the communications center as soon as practicable.

Methodology

See section 2.2, above, for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Status

New Jersey State Police SOPs relating to the call-in of motor vehicle stops meet the requirements of the consent decree. In addition, training regarding motor vehicle stops is reasonably designed to affect the necessary behavior on the part of troopers conducting traffic stops.

Computer Assisted Dispatch (CADS) were also requested by the monitors for all motor vehicle stop activity for the selected stations. A sample of 76,523 CAD records were reviewed electronically, and >99 percent were found to have “clearance codes” indicating a call in notifying the communications center of the trooper’s actions and time of clearance. Of the 192 stops reviewed by video tape, clearance codes were present in 95.1 percent of all video tapes reviewed, and in 99 percent of all electronic records. Overall, more than 95 percent of all records included the required codes.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.6.4 Compliance with Task 30d: CADS Incident Number Notification

Task 30d	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 30d stipulates that:

d. The communications center shall inform the trooper of an incident number assigned to each motor vehicle stop that involved a motor vehicle procedure (i.e., occupant requested to exit vehicle, occupant frisked, request for consent search, search, drug dog deployed, seizure, arrest or use of force), and troopers shall utilize that incident number to cross reference other documents prepared regarding that stop. Likewise, all motor vehicle stop information recorded by the communication center

about a particular motor vehicle stop shall be identified by the unique incident number assigned to that motor vehicle stop.

Methodology

New Jersey State Police SOPs relating to the call-in of motor vehicle stops meet the requirements of the consent decree. In addition, training regarding motor vehicle stops is reasonably designed to affect the necessary behavior on the part of troopers conducting traffic stops.

Computer Assisted Dispatch (CADS) were also requested by the monitors for all motor vehicle stop activity for the selected stations. A sample of 76,523 CAD records were reviewed electronically, and >99 percent were found to have "CAD Incident Numbers" indicating a CAD incident number. Of the 192 stops reviewed by video tape, clearance codes were present in all but two of all video tapes reviewed, and in 99 percent of all electronic records. Overall, more than 95 percent of all records included the required codes.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.7 Compliance with Task 31: Reporting Consent to Search Requests

Task 31	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Pattern]											
Phase II	[Pattern]											

Task 31 stipulates that:

31. Consent Searches of Motor Vehicles. The State Police shall continue to require that whenever a state trooper wishes to conduct or conducts a consensual search of a motor vehicle in connection with a motor vehicle stop, the trooper must complete a "consent to search" form and report. The "consent to search" form shall contain information, which must be presented to the driver, or other person authorized to give consent before a consent search may be commenced. This form shall be prepared in English and Spanish. The "consent to search" report shall contain additional information, which must be documented for State Police records.

Methodology

See section 2.2, above, for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Status

A MVSR form was completed accurately in nine of the nine events that the monitoring team reviewed, that included a consent search request. Two of the incidents involved a consent request that was denied. This constitutes a 100 percent compliance rate. In addition, the information required to be presented to the driver was so presented in each of the nine cases. In the two cases in which the drivers declined permission, no further search activity was noted by Division personnel.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.7.1 Compliance with Tasks 31a-c: Recording Consent to Search Requests

Task 31a-c	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Tasks 31a-c stipulate that:

- a. The State Police shall require that all "consent to search" forms include the following information :**
 - 1. the date and location of the stop;**
 - 2. the name and identification number of the trooper making the request for consent to search;**
 - 3. the names and identification numbers of any additional troopers who actively participate in the discussion with the driver or passenger(s) concerning the request for consent to search;**
 - 4. a statement informing the driver or other person authorized to give consent of the right to refuse to grant consent to search, and that if the driver or other person**

authorized to give consent grants consent, the driver or other person authorized to give consent at any time for any reason may withdraw consent to search;

5. a statement informing the driver or other person authorized to give consent of the right to be present during the search at a location consistent with the safety of both the state trooper and the motor vehicle occupant(s) which right may be knowingly waived;
6. check-off boxes to indicate whether consent has been granted, and if consent is granted, the driver or other person authorized to give consent shall check the appropriate box and sign and date the form; and
7. if the driver or other person authorized to give consent refuses consent, the trooper or the driver or other person authorized to give consent shall so note on the form and the driver or other person authorized to give consent shall not be required to sign the form.

b. A state trooper who requests permission to conduct a consent search shall document in a written report the following information regardless of whether the request for permission to conduct a search was granted or denied:

1. the name of the driver or other person authorized to give consent to whom the request for consent is directed, and that person's gender, race/ethnicity, and, if known, date of birth;
2. the names and identification numbers of all troopers who actively participate in the search;
3. the circumstances which constituted the reasonable suspicion giving rise to the request for consent;
4. if consent initially is granted and then is withdrawn, the fact that this occurred, and whether the search continued based on probable cause or other non-consensual ground, or was terminated as a result of the withdrawal of consent;
5. a description of the type and quantity of any contraband or other property seized; and,
6. whether the discussion concerning the request for consent to search and/or any ensuing consent search were recorded using MVR equipment.

c. The trooper shall sign and date the form and the report after each is fully completed.

Methodology

Members of the monitoring team reviewed report information for nine consent requests and seven consent searches, and reviewed video tape recordings of seven motor vehicle stops involving consent searches. Supporting documentation for all nine consent search requests was reviewed, and the

events depicted on the seven video tapes reviewed were assessed in light of the reports generated by the trooper concerning the event. See section 2.2, above, for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Status

Members of the monitoring team noted no problems with consent searches. The State remains in compliance with this task.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.8 Compliance with Task 32: Recording and Reporting of Non-Consensual Searches

Task 32	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Bar]											
Phase II	[Bar]											

32. Non-consensual Searches of Motor Vehicles (Excluding Vehicle Searches Begun as a Consent Search).
 A state trooper shall complete a report whenever, during any motor vehicle stop, the trooper conducts a non-consensual search of a motor vehicle (excluding vehicle searches begun as a consent search). The report shall include the following information:

1. the date and location of the stop;
2. the names and identification numbers of all troopers who actively participated in the incident;
3. the driver's name, gender, race/ethnicity, and, if known, date of birth;
4. a description of the circumstances which provided probable cause to conduct the search, or otherwise justified the search;
5. a description of the type and quantity of any contraband or other property seized; and
6. whether the incident was recorded using MVR equipment.

Methodology

See section 2.2, above, for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Status

New Jersey State Police SOPs reasonably address the processes of making and recording non-consensual searches, and training provided to road personnel reasonably prepares them to complete these processes in conformance to the requirements of this task.

Of the 190 MVSRs reviewed which entailed non-consensual searches of vehicles, members of the monitoring team found problems with one. This search, which was designated as incidental to arrest, was actually conducted *before* the arrest was made. The reason for the arrest in two different ways on the MVSR and the Investigation Report. An error rate of one of 190 events equals 0.05 percent, within the acceptable level of error.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.9 Compliance with Task 33: Recording and Reporting Deployment of Drug Detection Canines

Task 33	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 33 stipulates that:

- 33. Drug-Detection Canines. A state trooper shall complete a report whenever, during a motor vehicle stop, a drug-detection canine is deployed. The report shall include the following information:**
- 1. the date and location of the stop;**
 - 2. the names and identification numbers of all troopers who participated in the incident;**
 - 3. the driver's name, gender, race/ethnicity, and, if known, date of birth;**

- 4. a description of the circumstances that prompted the canine to be deployed;
- 5. whether an alert occurred;
- 6. a description of the type and quantity of any contraband or other property seized; and
- 7. whether the incident was recorded using MVR equipment.

Methodology

See section 2.2, above, for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Status

The policies, forms, training curricula and training processes relative to the deployment of drug detection canines and reporting of these deployments are reasonably designed to guide behavior responsive to Task 33.

Members of the monitoring team monitored, by document review, all 13 reported drug detection canine deployments effected by the New Jersey State Police. In addition, members of the monitoring team reviewed eight canine deployments by reviewing video tapes of the deployments to ensure that the reports accurately reflected the events depicted on the official reports. Members of the monitoring team found all of the canine deployments to be accurately reported, and canines to have been deployed in conformance with the requirements of procedures and the decree.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.10 Compliance with Task 34a: Use of Mobile Video Recording Equipment

Task 34a	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 34a stipulates that:

34. Use of Mobile Video/Audio (MVR) Equipment.

a. The State Police shall continue to operate all patrol vehicles engaged in law enforcement activities on the New Jersey Turnpike and the Atlantic City Expressway with MVR equipment. The state shall continue with its plans to install MVR equipment in all vehicles, both marked and unmarked, used for patrols on all other limited access highways in New Jersey (including interstate highways and the Garden state Parkway), and shall complete this installation within 12 months.

Methodology

Members of the monitoring team identified every patrol vehicle used for patrol purposes by the ten road stations visited this reporting period. An inventory was conducted to ensure that video tape recordings were in the possession of the road station commander (in all cases in a secured storage area) for a random 25 percent sample of all patrol vehicles for each day of the current reporting period. In addition, members of the monitoring team requested to view video tapes for 192 events known to have occurred during the current reporting period.

Status

Members of the monitoring team found evidence of video tape recordings and sequentially numbered and inventoried for every patrol vehicle identified for every day of the current reporting period.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.11 Compliance with Task 34b-c: Training in MVR Operation and Procedures

Task 34b-c	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	Blue											
Phase II	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red

Task 34b-c stipulates that:

b. The state shall continue to implement procedures that provide that all state troopers operating a vehicle with MVR equipment may operate that vehicle only if they first are trained on the manner in which the MVR equipment shall be tested, maintained, and used. The state shall ensure that all MVR equipment is regularly inspected, maintained, and repaired.

c. Except when MVR equipment unforeseeably does not function, all motor vehicle stops conducted by State Police vehicles with MVR equipment shall be recorded by these vehicles, using both the video and audio MVR functions. The recording shall begin no later than when a trooper first signals the vehicle to stop or arrives at the scene of an ongoing motor vehicle stop begun by another law enforcement trooper; and the recording shall continue until the motor vehicle stop is completed and the stopped vehicle departs, or until the trooper's participation in the motor vehicle stop ends (the recording shall include requests for consent to search a vehicle, deployments of drug-detection canines, and vehicle searches). If a trooper operating a vehicle with MVR equipment actively participates in a motor vehicle stop and is aware that the motor vehicle stop was not recorded using the MVR equipment, the trooper shall notify the communications center of the reason the stop was not recorded, which the center shall record in a computerized information system.

Methodology

In addition to verifying the existence of a video tape in each patrol vehicle for each day of this reporting period (see above), members of the monitoring team pulled for review a sample of 225 post-stop law enforcement actions of interest to the decree. These included 225 events selected from New Jersey State Police databases, and 192 procedures selected by reviewing video tapes⁹.

Status

While policies have been implemented requiring video and audio recording of all consent-decree related traffic stops, not all stops are recorded in conformance with the decree. Members of the monitoring team noted that 95.8 percent of all video recordings were initiated "when first signaled to stop." In addition, 94.7

⁹ All 192 events reviewed by video-tape were included in the 225 MVRs reviewed.

percent of the recordings were noted to “continue until completion” as required by the decree. Notice of completion and notice of action taken was recorded in 93 percent of the cases, but was captured on CAD information systems in 99.9 percent of the cases.¹⁰

A review of the 192 video tapes selected by the monitoring team indicates that the agency has resolved problems noted in earlier reports concerning “out of tape” issues and troopers patrolling with inoperative video units. The agency has, it appears, achieved general compliance with the requirements of the decree. A problem, noted for the last few reporting periods, continues this period. This problem involves technical difficulties with audio recordings during motor vehicle stops. Of the 192 stops reviewed via video-tape this period, 44 exhibited some form of audio difficulty, and 13 exhibited some form of video difficulty. One incident included an apparently deliberate deactivation of the microphone. This incident was, appropriately, referred to OPS for review. Troopers have begun activating their microphones during traffic stops at a much higher rate, with the monitoring team noting only three events (of 192 reviewed) in which activation was delayed for a reason other than technical difficulties.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.12 Compliance with Task 35: Supervisory Review of Trooper Reports

Task 35	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 35 stipulates that:

35. The reporting trooper's supervisor shall review each report prepared pursuant to ¶¶31-33 within 14 days of the precipitating incident and, as appropriate, in conjunction with that review, may view any associated MVR tape.

Methodology

¹⁰ Some actions are not recorded on in-car MVR, as they are made via portable radio away from the main recording microphone. These call-ins, however, are captured by CADS operators and entered into the State’s CADS system.

See section 2.2, above, for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Status

A review of all electronic records of motor vehicle stops, completed during the reporting period indicated that 100 percent of these were reviewed by supervisory personnel. A review of 225 hardcopy records of motor vehicle stop activity indicates all reports were reviewed. Thirty instances were noted, however, which constituted lapses in the quality of the supervisory review process (see sections 2.4 and 2.5, above). The State continues to be out of compliance with this task, although two significant phenomenon were noted this quarter. First, supervisory personnel continue to review a much higher **number** of motor vehicle stop tapes. Secondly, the number of supervisory reviews resulting in performance notices for positive trooper behavior has markedly increased, as well. Third, the number of supervisory reviews resulting in performance notices for trooper behavior that contradicts the consent decree has markedly increased, with a total of 144 consent decree and non-consent decree errors were noted by supervisors this period. Unfortunately, however, in many instances, supervisory review has failed to note obvious errors that occurred in the field. The monitoring team reviewed all completed MVSRs for the 225 selected stops reviewed this quarter for evidence of reporting or procedural errors that should have been noted by supervisory personnel. From those 225 events, the monitors found 30 that exhibited some form of reporting problem that should have been noted by supervisory review, but was not. These included:

- Seven troopers articulated insufficient reason to suspect drivers or passengers were armed in their MVSRs detailing frisks of drivers or passengers of vehicles.
- Eleven troopers submitted MVSRs with one or more substantial errors in the reports, which conflicted with events observed on the in-car video tapes reviewed by the monitoring team.
- Twenty-Five troopers violated New Jersey State Police reporting or in-field practice procedures (ranging from failure to call-in to the communications center prior to conducting a search (19) failure to activate the in-car MVR when required (3), failure to call-in the motor vehicle stop prior to approach (1), failure to record the interaction through to completion (2) and supervisors reviewing

these reports and MVRs failed to take note of the procedural errors.¹¹

This constitutes an error rate of 30 of 225, or 13.3 percent, outside the allowable five percent error rate for this task. The reader should note, however, a *qualitative difference* in these omissions. Since late in the sixth reporting period, supervisory personnel have been required to review *all* consent search, uses of force, and canine deployment reports. Errors in those activities continue to drop this period. Remaining errors (State Police procedural violations, and less problematic consent decree violations—activation times for video and audio recordings, for example) are less troublesome than poor consent search request practices, arbitrary deployment of canines, and problematic uses of force. While a continuing problem exists of failure to notify communications prior to conducting a consent search or a non-consensual search, the monitors have found that, for the most part, the searches are being conducted properly. It is the process of *notification* that is not being followed.

Three problems are surfacing relative to supervisory review of video tapes. These are discussed in the following paragraphs.

First, the quality of supervisory reviews, in some cases, is exceptionally poor. One such review encountered this quarter failed to note at least five problems with the stop, including weak probable cause for arrest, a search of a vehicle incidental to an arrest made away from the vehicle, failure to videotape the search of the vehicle, and failure to notify dispatch of the pending search of the vehicle. This same supervisor was found to have conducted faulty reviews of a fairly substantial number of other incidents. The supervisor in question is a member of the new cadre of “administrative” review sergeants tasked (primarily) to enhance supervisory review processes.

Second, information systems do not yet exist to track, organize, and use the vast amount of MVS and MVR documentation to improve on-the-road performance of troopers and supervisors. No effective method exists to allow supervisors and managers to look at a given trooper’s decree-related performance factors when making decisions concerning remedial measures once behavior is observed contradictory to the requirements of the decree. This difficulty was highlighted this reporting period when a trooper was served with performance notices by two separate supervisors for the same violation, the second supervisor not being able to easily access the fact that another supervisor had already dealt with the incident. Given the large numbers of transfers of personnel (both at the trooper

¹¹ These numbers total more than 30 due to the fact that multiple troopers made more than one error in some MVSs.

level and supervisory level), memory does not serve as a good tool to assess past history when determining how to deal with violations of the decree. This can lead to both under-response or over-response to a given transgression. The long-delayed MAPPS system becomes critical in solving this problem.

Third, continued problems exist with supervisory review of in-field frisks of drivers and passengers. A total of 62 frisks were reported by field personnel in the sample of 225 incidents reviewed by the monitors. Errors were found seven of those cases, constituting an error rate of 11.3 percent. Supervisors had reviewed all but one of these reports involving frisks, and failed to note the errors in reporting/conducting frisks of drivers and passengers.

Finally, monitors assessed all electronic records for MVSRs, and determined that greater than 99 percent of all MVSRs received initial supervisory review within 14 days of the event reported in the MVSR.

Compliance

Phase I: In Compliance
 Phase II: Not in Compliance

2.13 Compliance with Task 36: Supervisory Review of MVR Tapes

Task 36	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 36 stipulates that:

36. The state shall adopt a protocol requiring that State Police supervisors review MVR tapes of motor vehicle stops on a random basis. The protocol shall establish the schedule for conducting random reviews and shall specify whether and in what manner the personnel conducting the review shall prepare a written report on each randomized review of an MVR tape. Prior to implementation, the protocol shall be approved by the United States and the Independent Monitor.

Methodology

See Section 2.2, above, for a description of the methodology used to assess compliance for this task.

Status

Training for supervisory personnel regarding MVR review and a supervisory-management system for using MVR reviews as part of the MAPPS process has been delayed again. Training for supervisory personnel regarding revisions to the procedures noted above was completed in November, 2001. The State developed, and implemented in November, 2001, a formal policy requirement regarding MVR review processes for supervisory personnel, using a structured review process that, in the opinion of the monitoring team, has drastically improved the quality of supervisory review. OSPA provides advanced training to field supervisors regarding MVR/MVSR review protocols.

During on-site reviews at New Jersey State Police road stations, members of the monitoring team reviewed more than 1,000 supervisors' MVR review reports. The quality of these reports has improved substantially. All reviews assessed this reporting period were completed using the new Form 528, a form requiring a highly structured review process. This process is a vast improvement over earlier processes. Members of the monitoring team were able to compare 190 supervisors' reviews with actual video tapes (the same tapes reviewed by supervisors as part of their review process). Members of the monitoring team noted 30 reporting or procedural issues in the 190 tapes they reviewed that were missed by the supervisory cadre at the New Jersey State Police. This constitutes an overall error rate for supervisory review of 26.8 percent, down from 36 percent last period, but far beyond the agreed upon five percent margin for error.

In addition, the number of supervisory reviews resulting in performance notices continue to rise past the level at which it is possible to track, organize and review them. In order for the agreement to view supervisory notice as indicative of good supervision, the New Jersey State Police must ensure that past performance notices are taken into account when considering action on current errors. Repeated errors or mistakes require more than counseling or retraining, and it is incumbent on the State Police to ensure that members' records (performance notices, counseling, retraining, etc.) are easily accessible to line supervisory personnel. The long-delayed MAPPS systems will assist in resolving this issue.

Further, members of the monitoring team assessed each road station to determine whether or not there was a repeat of last reporting period's problem with one station conducting fewer than the required number of MVR reviews. All stations assessed this period conducted more than the required number of MVR reviews for the reporting period.

Four problems are surfacing relative to supervisory review of video tapes. These are discussed in the following paragraphs.

First, the New Jersey State Police have implemented a new layer of supervisory review processes. The State intends these personnel to supplement first-line supervisors, not as supplantive of first-line supervisors. This new layer is a group of sergeants specially tasked to review MVSRs and MVR tapes. This review function, originally implemented to improve the quality of MVSRs and MVR tapes has, apparently, removed (perceptually at least) the most critical link in improving field performance: the first-line supervisor. It is an axiom of American policing that *the key* to change in policing is the first-line supervisor, the individual responsible for day-to-day supervision of line personnel. The second level of review, in many cases, has relieved first-line supervisors of the responsibility for maintaining contact with and supervision of line troopers, has led to some difficulties. For example, during this reporting period, at least one trooper received two separate performance notices for violation of consent-decree related procedure, for the same event, but from two separate supervisors.

Second, the quality of supervisory reviews, in some cases, is exceptionally poor. One such review encountered this quarter failed to note at least five problems with the stop, including weak probable cause for arrest, a search of a vehicle incidental to an arrest made away from the vehicle, failure to videotape the search of the vehicle, and failure to notify dispatch of the pending search of the vehicle. This same supervisor was found to have conducted faulty reviews of six other incidents. The supervisor in question is a member of the new cadre of "administrative" review sergeants tasked (primarily) to enhance supervisory review processes. A second supervisor was found to have conducted problematic reviews, i.e., returned by the monitors, of eight stops.

Third, information systems do not yet exist to track, organize, and use the vast amount of MVSR and MVR documentation to improve on-the-road performance of troopers and supervisors. No effective method exists to allow supervisors and managers to look at a given trooper's decree-related performance factors when making decisions concerning remedial measures once behavior is observed contradictory to the requirements of the decree. This difficulty was highlighted this reporting period when a trooper was served with performance notices by two separate supervisors for the same violation, the second supervisory not being able to easily access the fact that another supervisor had already dealt with the incident. Given the large numbers of transfers of personnel (both at the trooper level and supervisory level), memory does not serve as a good tool to assess past history when determining how to deal with violations of the decree.

This can lead to both under-response or over-response to a given transgression. The long-delayed MAPPs system becomes critical in solving this problem.

Fourth, continued problems exist with supervisory review of in-field frisks of drivers and passengers. A total of 62 frisks were reported by field personnel in the sample of 225 incidents reviewed by the monitors. Errors were found seven of those cases, constituting an error rate of 11.3 percent. Supervisors had reviewed all but one of these reports involving frisks, and failed to note the errors in reporting/conducting frisks of drivers and passengers.

Compliance

Phase I: In Compliance
 Phase II: Not In Compliance

2.14 Compliance with Task 37: Supervisory Referral to PSB of Observed Inappropriate Trooper Conduct

Task 37	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 37 stipulates that:

37. After conducting a review pursuant to ¶35, ¶36, or a special MVR review schedule, the personnel conducting the review shall refer for investigation by the Professional Standards Bureau ("PSB") any incident where this review reasonably indicates a possible violation of the provisions of this Decree and the protocols listed in ¶29 concerning search or seizure procedures, nondiscrimination requirements, and MVR use requirements, or the provisions of the Decree concerning civilian complaint procedures. Subsequent investigation shall be conducted by either the PSB or the Office of the Attorney General ("OAG") as determined by the State. Appropriate personnel shall evaluate all incidents reviewed to determine the need to implement any intervention for the involved trooper.

Methodology

See Section 2.2, above, for a description of methodologies used to assess compliance for this task.

Status

During the monitors' site visits for the eighth reporting period, the monitors noted one incident that should have been forwarded to OPS in response to the requirements of this task. This incident involved a trooper apparently deliberately turning off the microphone that had been previously (properly) activated by another trooper. The microphone apparently remained off for approximately five minutes, and then was reactivated. This apparently is a deliberate violation of Task 37, and as such was appropriately referred to OPS for review.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.15 Compliance with Task 38: Periodic Reviews of Referral Decisions

Task 38	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 38 stipulates that:

38. The State Police and the OAG shall conduct periodic reviews of referral decisions pursuant to ¶ 37 to ensure appropriate referrals are being made. State Police personnel shall be held accountable for their referral decisions.

Methodology

Personnel at the Office of the Attorney General (Office of State Police Affairs) and the New Jersey State Police are aware of the requirement to monitor referral decisions pursuant to paragraph 37 of this decree. Recently completed training for all supervisory personnel included a discussion of the requirement to “copy” to the Office of State Police Affairs any referrals to OPS by supervisory personnel.

Referrals have been made to the Office of Professional Standards, and others are anticipated based on reviews conducted during the and seventh and eighth reporting periods. Personnel from the OAG are aware of the requirement for periodic audits, and have conducted audits of New Jersey State Police activities during the last reporting period (see section 2.83, below). OSPA has in place an extensive audit process designed to identify and remedy problematic supervisory processes, including problematic referral decisions. Staff from OSPA routinely audit field supervisory personnel's review of field practice, their associated supervisory actions to remedy inappropriate action on the part of law enforcement personnel, and their decisions to (or not to) refer trooper behavior to OPS.

Status

To date, no supervisory personnel have been identified who have failed to appropriately refer trooper behavior to OPS when such a referral should have been made. While a system is in place to hold supervisory personnel accountable for their referral decisions, no such event has occurred, to date.¹²

Compliance

- Phase I: Unable to Monitor
- Phase II: Unable to Monitor

2.16 Compliance with Task 39: Regular Supervisory Activity in the Field

Task 39	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 39 stipulates that:

39. The State Police shall require supervisors of patrol squads that exclusively, or almost exclusively, engage in patrols on limited access highways to conduct supervisory activities in the field on a routine basis.

¹² The incident noted in section 2.14 did not include a review by first-line supervisors.

Methodology

Numerous changes in New Jersey State Police policies regarding this task were made in the fourth reporting period, and were fully implemented in the sixth reporting period. New Jersey State Police policies F-19 (MVR Equipment), F-7 (Radio Procedures), F-31 (Consent to Search) and F-55 (Patrol Procedures) were revised in October, 2001 to reflect changes in operational practices designed to better assess New Jersey State Police patrol actions relative to prohibiting race- or ethnicity-based decision making. For example, supervisory personnel now review motor vehicle stop recordings (MVSRs) of all motor vehicle stops involving consent search requests. Supervisors also are required to routinely monitor and review, using a new, highly structured "checklist" a larger number of "routine" MVSRs, and now are required to review all consent searches, uses of force, and canine deployments engaged in by their personnel. In addition, law enforcement personnel who have exhibited problematic on-road behavior in the past are selected for enhanced monitoring through review of a larger number of MVSRs on a quarterly (and in some cases even daily) basis. The position of "road sergeant" has been implemented, thus increasing substantially the level of direct supervision of road activities. Supervisors are now required to approve all consent searches, and, where practicable, to be present when consent searches are conducted. Training in these new procedures and policies has also been provided to all supervisory personnel and troopers involved in law enforcement activities. During this reporting period, additional revisions were made to SOPs F-7, F-31 and F-55. These changes were designed to improve performance on call-ins prior to search and consent search.

In addition, attorneys from the Office of State Police Affairs have been assigned to each of the State Police's five troops, for the purpose of serving as legal advisors to the troops. These attorneys also perform site visits to State Police road stations to obtain feedback from law enforcement personnel regarding training and remediation of errors in traffic stop procedures. OSPA also initiated in-field audits of all consent searches, uses of force and canine deployments, with remedial mentoring of State Police supervisors in instances in which problematic procedures are noted. OSPA has also modified, during this reporting period, the non-consensual search protocols, requiring enhanced supervisory presence at the scenes of such procedures, and also requiring supervisory approval of such procedures.

Status

The New Jersey State Police have recently appointed and deployed patrol sergeants to serve as "road supervisors;" however, these personnel were noted to be "on scene," in only 24 of the 225 events (10.7 percent) reviewed by the

members of the monitoring team (through MVR reviews at the road stations and via review of written documentation of motor vehicle stop incidents). This represents a reduction from 12.6 percent during the seventh period. The sixth reporting period's supervisory presence rate was three percent. Supervisors were present at 22.2 percent of all incidents involving consent search requests (down from 50 percent last period), and only one of 13 events involving a drug detector canine (7.7 percent), down from 35.7 percent last period. The monitors are concerned that—despite the addition of dozens of new “road sergeants” and despite the addition of new sergeants to review MVSRs and MVR tapes, the level of supervisory activity on the road appears to be dropping. Of the 30 events noted by the monitoring team as problematic this reporting period, only *two* of those had New Jersey State Police supervisory personnel at the scene of the event.

Perhaps more troubling, is the apparent trend observed by the monitors to not note and take corrective action with supervisors who fail to deal with performance issues that should have been noted during the on-site supervisory process or during the after-the-fact MVSR review. During the eighth reporting period, the monitors observed at least 30 instances in which a supervisor had failed to note performance contradictory to the consent decree or to New Jersey State Police procedures, yet no evidence is available to support any corrective action on the part of the New Jersey State Police for these oversights. These 30 instances led to a failure to act on at least 46 separate violations of procedures or consent decree requirements on the part of supervisory personnel. The monitors would expect that these supervisors would be counseled, retrained or otherwise have their performance improved through documented means. The reader should note that eight of these 30 separate violations of decree-related procedures involved Constitutional issues, e.g., one problematic search and seven frisks.

Supervision is **the critical factor** in making change within the New Jersey State Police. Adequate and, the monitors would argue, excellent training for supervisory personnel is an essential first step to achieving the goals of the consent decree. The New Jersey State Police have instituted the position of road sergeant throughout the operations component of the Division, in effect creating a new set of eyes and ears tasked with monitoring the performance (both positive and negative) of road personnel. The monitors, in an effort to enlist these new positions in the process of noting and correcting behavior violative of the decree, have advised the State that problems noted and corrected by supervisory personnel will not be tallied against the agency in the monitors' final reports—although they will be noted in the narratives. In this light, some supervisory personnel **have** noted violations of the decree, and have issued performance notices for these violations, representing improvements over past

supervisory practices. However, in the monitors' assessment, these activities have fallen far short of the required level of noting greater than 94 percent of decree violations.

This cadre of road sergeants, in the opinion of the monitors, must be expert in the decree. More importantly, however, they must be expert in field contacts, detentions, detention interrogations, arrest, frisks, search, seizure, and use of force. In addition, they must be expert in the concepts of reasonable suspicion, articulable suspicion, and probable cause. Obviously, training is a critical element for these personnel—and any other personnel charged with review of motor vehicle stop activity.

Additionally, the monitoring team has noted that the number of performance notices issued as a result of the monitoring process has increased significantly, making it difficult to track easily the number of previous performance notices received by individual troopers. Until a Division-wide MAPPS program is implemented, it will be difficult to demonstrate that troopers receiving performance notices for violations of the decree are not repeat offenders. The importance of MAPPS—as a source that integrates supervisory processes—become more obvious in this context.

It is clear that the New Jersey State Police have improved substantially the level of supervision on the road. Rates of review are up. Notice of adverse performance is up (as well as notice of superior performance); however, as with the State's performance on tasks 27, 28, and 29a this reporting period, it is clear that improvements need to be made in performance in these areas.

Compliance

- Phase I: In Compliance
- Phase II: Not In Compliance

2.17 Compliance with Task 40: Development of a Management Awareness and Personnel Performance System

Task 40	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 40 stipulates that:

40. The state shall develop and implement computerized systems for maintaining and retrieving information necessary for the supervision and management of the State Police to promote professionalism and civil rights integrity, to identify and modify potentially problematic behavior, and to promote best practices (hereinafter, the "Management Awareness Program" or "MAP").

Methodology

As all MAPPS components currently reflect the same status at this time, i.e., in compliance for Phase I and not in compliance for Phase II, the monitoring team will report only on Task 40 for this report. The State remains in Phase I compliance with tasks 41-51. The State has not yet attained Phase II compliance with tasks 41-51.

The close of the eighth reporting period represented the 39th month in which the decree was operational. The parties envisioned complete planning for an operational MAPPS within 180 days of implementation of the decree, i.e., by June, 2000. While the monitors agree that this was an overly ambitious expectation, they are also of the opinion that an operational MAPPS is long over due, and the lack of an automated system to track trooper and supervisory performance is beginning to seriously affect the State's ability to meet the requirements of the decree.

The monitors understand and laud the fact that, in the several months, more progress has been made in developing a final plan for MAPPS than in the previous two years. The State continues to make progress on MAPPS, expanding to two additional *Beta* sites for MAPPS testing and development. The State, after the close of the eighth monitoring period, forwarded to the monitors and the Department of Justice a "final" draft plan for MAPPS. The monitors have reviewed this document, and have approved it with minor reservations, none of which impact the workability of the system viz a viz the decree. The current MAPPS plan calls for completion of an automated MVR review system, problem-solving and remediation of know existing "bugs" in the automated system, revisions to scatter diagrams, completion of the "intervention" subsystem, and completion of the "counts" subsystem by January, 2004. The existing plan calls for a MAPPS implementation for Field Operations by October, 2003. Compliance with this schedule, with a substantial implementation of MAPPS within Field Operations by October 15, 2003 (the date of the next monitoring field observation visit) is required to avoid losing Phase I compliance with all MAPPS-related tasks.

Compliance

Phase I: In Compliance
 Phase II: Not In Compliance

2.29 Compliance with Task 52: Supervisors to Implement Necessary Changes

Task 52	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Blue bar]											
Phase II	[Red bar]											

Task 52 stipulates that:

52. Each supervisor shall, consistent with his or her authority, implement any appropriate changes or remedial measures regarding traffic enforcement criteria, training, and enforcement practices for particular units or subunits or implement any appropriate intervention for particular troopers; conduct any necessary additional assessment or investigation regarding particular units or subunits or particular troopers; and/or make any appropriate recommendations.

Methodology

During the eighth reporting period, members of the monitoring team noted several instances of supervisory personnel issuing “performance notices” or other interventions for actions of division personnel inconsistent with policy or established practice. Evidence exists to support the fact that supervisory personnel are beginning to carefully review trooper activity and to issue performance notices or other “interventions” when inappropriate behavior occurs. For the first time, the monitors have noted substantial difficulties with the supervisory review process, with numerous instances surfacing which led the monitoring team to believe that not all supervisory reviews were being diligently conducted. The “error rate” for supervisory review rose during this reporting period, from 11.2 percent during the seventh period to 13.3 percent this period. Most problems identified were with Field Operations new cadre of supervisory personnel, not with staff inspections. Eight of the 30 errors rose to the level of Constitutional violations, e.g., a search and seven frisks. During this reporting period, the monitoring team reviewed both commendations and counselings based on events not reviewed by the monitoring team, and numerous counselings based on events which were brought to the attention of supervisory

personnel by the monitoring team. Until an effective division-wide MAPPS process is implemented, and supported by appropriate training and usage protocols, however, complete compliance with this task is not feasible. See sections 2.13 and 2.16, above, for additional comments relative to supervisor review.

Compliance

Phase I: In Compliance
 Phase II: Not In Compliance

2.30 Compliance with Task 53: Supervisory Review of Troopers with More than Two Misconduct Investigations in Two Years

Task 53	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 53 stipulates that:

53. A supervisory review shall be conducted regarding any state trooper who within a period of two years, is the subject of three misconduct investigations of any kind initiated pursuant to ¶ 73. Where appropriate, the review may result in intervention being taken. In the event the supervisory review results in intervention, the supervisor shall document the nature, frequency, and duration of the intervention.

Methodology

The State has developed a system of OPS notification of more than two misconduct investigations in a two-year period, but additional work is pending regarding protocols for and assessment of supervisory response to this section. Development of protocols for implementation of this provision have been a primary focus of the State for the this reporting period; however, the State has failed to complete implementation of this provision this reporting period. This threatens compliance in other areas of the decree as well (see section 2.70, Task 98, below). The monitors have advised the parties that once compliance is attained, two quarters of non-compliance are required to lose the “in-compliance” assessment for a given task. The State was warned concerning Phase I compliance with this task in the seventh monitors’ report.

Compliance

Phase I: Not In Compliance
 Phase II: Not In Compliance

2.31 Compliance with Task 54: Drivers Survey of the New Jersey Turnpike

Task 54	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 54 stipulates that:

54. To assist in evaluating data reported from the MAP concerning State Police law enforcement on the New Jersey Turnpike, the state shall develop (for purposes of implementing this Decree) a protocol for conducting a survey of a sample of persons and vehicles traveling on the New Jersey Turnpike to determine the racial/ethnic percentage of drivers on the Turnpike. As appropriate, the survey may identify different benchmark figures for different portions of the Turnpike. Prior to implementation, the protocol shall be approved by the Independent Monitor and the United States. The protocol shall be developed and implemented using a consultant jointly selected by the parties. The survey shall be completed within one hundred fifty (150) days of the entry of this Decree. Both the United States and the state agree that the utility and fairness of the MAP described in this Consent Decree will depend to some degree on the development of accurate and reliable benchmarks that account for all appropriate variables and factors.

Methodology

The State has completed the required traffic survey, and has released the document to the public.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.32 Compliance with Task 57: Troopers to Provide Name and Badge Number

Task 57	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 57 stipulates that:

57. The State Police shall require all state troopers to provide their name and identification number to any civilian who requests it.

Methodology

During the fourth reporting period, the New Jersey State Police received and appropriately investigated an allegation of failure to provide identification. The case was not sustained; however, the referral and investigation of the complaint indicates conformance to established policies regarding this task. During the eighth reporting period, no completed investigations for such allegations were noted.

Status

The State remains in compliance with this task, based on compliance assessed during the first through fourth quarter.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.33 Compliance with Task 58: State to Inform Civilians re Complaints/Compliments

Task 58	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 58 stipulates that:

58. The State Police shall develop and implement an effective program to inform civilians that they may make complaints or provide other feedback regarding the performance of any state trooper. This program shall, at a minimum, include the development of informational materials (fact sheets and informational posters) describing the complaint process and the development and distribution of civilian complaint forms. The State Police shall make such materials available in English and Spanish.

Methodology

No changes in New Jersey State Police policies regarding this task were made in the last reporting period. During the first quarter, members of the monitoring team reviewed relevant policies and approved implementation of these policies as written.

Status

The compliment/complaint forms developed by the State are reasonably designed to accomplish the purpose of Task 58, are available in English and Spanish, and have, apparently been printed in numbers large enough to have been distributed to road stations, carried in patrol vehicles and to have been made available at the entry vestibule to road stations. Informational materials were available at all road stations and headquarters buildings visited by the monitoring team during this visit. A member of the team fluent in Spanish has reviewed the Spanish language forms and informational materials, and found them to be an effective translation, portraying virtually the same concepts as the English version. In addition, two troopers were counseled during the fifth reporting period for failure to advise an arrestee of the complaint process after the arrestee complained about the treatment he had received during the arrest. This event was among the use of force incidents reviewed by the monitoring team for the fifth quarter.

During the eighth reporting period, the monitors reviewed two video-taped incidents during which the drivers complained vocally about their treatment at the hands of the New Jersey State Police. Both of these drivers were provided complaint forms by New Jersey State Police personnel.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.34 Compliance with Task 59: Availability of Complaint/Compliment Forms

Task 59	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 59 stipulates that:

59. The state shall make complaint forms and informational materials available at State Police headquarters, all State Police stations, and such other locations around New Jersey as it may determine from time to time. The state shall publicize the State Police mailing address, internet address, and toll-free telephone number at state-operated rest stops located on limited access highways. The State Police also shall provide information on the internet about the methods by which civilians may file a complaint. The State Police further shall require all state troopers to carry fact sheets and complaint forms in their vehicles at all times while on duty. The State Police shall require all troopers to inform civilians who object to a trooper's conduct that civilians have a right to make a complaint. The State Police shall prohibit state troopers from discouraging any civilian from making a complaint.

Methodology

No changes in New Jersey State Police policies regarding this task were made in the last reporting period. During the first quarter, members of the monitoring team reviewed relevant policies and approved implementation of these policies as written.

Status

Compliment and complaint forms and informational materials were available at all State Police facilities visited by the members of the monitoring team, and both English and Spanish forms were provided. Members of the monitoring team

checked the State's rest areas/service areas, and noted that all checked this period had notice of compliment/complaint procedures posted. The web site conforms to the requirements of this task. Fact sheets and complaint forms were in all patrol vehicles inspected during this reporting period. During the eighth reporting period, seven completed complaint investigations were reviewed that were generated through these forms.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.35 Compliance with Task 60: Community Outreach

Task 60	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Solid Blue]											
Phase II	[Solid Blue]	[Solid Blue]	[Solid Blue]	[Solid Blue]								

Task 60 stipulates that:

60. The State Police shall develop a program of community outreach to inform the public about State Police functions and procedures, including motor vehicle stops, searches and seizures, and the methods for reporting civilian complaints or compliments regarding officers. This outreach program is not intended, and should not be construed, to require the State Police to disclose operational techniques to the public.

Methodology

The New Jersey State Police have modified their outreach programs to include provision of information related to the decree in their public meetings and organized interactions with various groups within the State. These meetings are often held in conjunction with local law enforcement agencies, and discuss topics of interest to the communities in attendance, as well as topics specifically related to the consent decree. Members of the monitoring team were unable to attend any of these meetings during their May site visit. The Division has also created the Community Affairs Bureau, tasked with establishing working relationships with the citizens of New Jersey.

Status

The community outreach process employed by the State Police continues to include provision of information related to the decree and discuss topics of interest to the communities in attendance. The schedule shows an active outreach on radio, through professional appearances and through community meetings. This process has been interrupted by the selection of the third New Jersey State Police Superintendent since initiation of the decree, thus understandably affecting the direction and tenor of these outreach processes. While the monitoring team has strong confidence in the new Superintendent, this change has resulted in a pause in consent decree compliance while the new Superintendent assesses current status and plans for changes in compliance efforts. The State continues to be in compliance with this task, however, based on past performance.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.36 Compliance with Task 61: Receipt of Citizens' Complaints

Task 61	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 61 stipulates that:

61. Civilians may initiate a complaint or otherwise provide feedback regarding State Police performance either in person, by mail, by telephone (or TDD), or by facsimile transmission. The State Police shall accept and investigate anonymous complaints and complaints filed by civilians other than the alleged victim of misconduct. The state shall not require that a complaint be submitted in writing to initiate a misconduct investigation.

Methodology

Members of the Monitoring team during the May 2003 site visit determined that SOP B-10 remains the official policy guideline for compliance with this requirement. Staff personnel of the Office of Professional Standards, in response to the monitoring team's request, produced a printout from the IA Pro System

that showed that in excess of 300 anonymous cases were accepted for investigative action during this reporting period.

Status

The on-site review determined that the State continues to initiate investigations as they are brought to its attention through the conduits as articulated in this paragraph of the decree. None of the cases reviewed during this period showed any signs of the State failing to comply with the processes outlined in this paragraph of the decree. A demonstration of the IA Pro system again determined a capability to establish the source of reportable incidents whether or not a misconduct case was opened by the State. A review of complaint sources produced the following results: Compliment/Complaint Form, 8; Email, 9; External, 60; Facsimile, 10; Hotline, 76; Internal, 97; Mail,; Notice of Claim, 10; Telephone, 153; Self-Report, 19; Supervisory MVR Review, 1; and Walk-In, 35; Anonymous, 10.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.37 Compliance with Task 62: Institution of a 24-hour Toll-Free Telephone Hotline

Task 62	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 62 stipulates that:

62. The State Police shall institute a 24-hour toll-free telephone hotline for civilians to call to make a complaint or compliment or otherwise provide feedback regarding State Police performance. The hotline shall be operated by the Professional Standards Bureau (hereinafter "PSB"). The State Police shall immediately connect or refer all civilians to this hotline who telephone a State Police station to file a complaint. The State Police shall publicize the hotline telephone number on informational materials, complaint forms, and "consent to search" forms. The State Police shall tape record all conversations on this hotline and shall notify all persons calling the hotline of the tape recording. The State Police

shall develop a procedure to assure that callers are being treated with appropriate courtesy and respect, that complainants are not being discouraged from making complaints, and that all necessary information about each complaint is being obtained. This procedure shall include regular reviews of the tape recordings.

Methodology

Members of the monitoring team during the May 2003 site visit determined that SOP B-10 continues to govern the requirements of this paragraph, as does the revised Internal Affairs Manual. The monitoring team determined that representatives of the Office of the State Police Affairs continue to monitor the Division's compliance with this requirement. The existence of the "Hotline" continues to appear on the New Jersey State Police website, the Compliment/Complaint forms and the "posters" that are affixed to various sites throughout the State. During the May 2003 site visit, members of the monitoring team listened to calls received on the RACAL lines. In all instances, the complaints culminated in appropriate investigative inquiry and complainant disposition.

Status

Members of the monitoring team randomly reviewed calls received during this reporting period. The monitoring team determined that members of the Office of Professional Standards comported with appropriate standards of courtesy and follow-through. Further, the monitoring team was able to determine that calls were properly catalogued and culminated, where appropriate, in investigative processes. The OPS staff has additionally advised that they will produce an electronic log of incoming calls to the toll free hotline. Members of the monitoring team reviewed a model of such a log that is currently under development and during the next site visit will look for a permanent, computerized log.

Phase I: In Compliance
 Phase II: In Compliance

2.38 Compliance with Task 63: PSB to Receive All Citizens' Complaints

Task 63	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 63 stipulates that:

63. The PSB shall be responsible for receiving all misconduct complaints. All complaints made at locations other than the PSB shall be forwarded to the PSB within a reasonably prompt period as specified by the State Police. The State Police shall assign and record a case number for each complaint. The OAG shall have access to all misconduct complaints received by PSB.

Methodology

The monitoring team determined that SOP B-10 continues to govern the Division's compliance with this requirement. The monitoring team requested and received copies of "Reportable Incident Forms," (525) that were received and completed at State Police facilities other than OPS. A review of these materials confirmed that the State is properly completing these forms and appropriately forwarding them to OPS for further disposition.

Status

A review of the relevant material determined that the State continues to meet the requirements of this task. OPS has, in all cases, processed appropriately reported incidents by assigning case numbers to forwarded complaints. OAG has unfettered access to OPS files.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.39 Compliance with Task 64: Relocation of Office of Professional Standards Offices

Task 64	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 64 stipulates that:

64. The State Police shall relocate PSB offices to buildings separate from any building occupied by other State Police personnel. The PSB shall publicize the locations of its offices.

Methodology

The monitoring team, during the May 2003 site visit examined the visitor’s log from the Freehold facility.

Status

The Office of Professional Standards has moved from Division Headquarters to a facility separate and apart from all other State Police functions. Members of the independent monitoring team inspected the new facility and observed that it has adequate space for assigned personnel, equipment and technology. The new locations of OPS offices has now been updated on the New Jersey State Police web site. It was determined that the visitors to this facility are overwhelmingly sworn members of the Division raising the issue as to the frequency of use by civilian complainants or witnesses. One hundred forty-two Division members visited the facility as did twelve civilians.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.40 Compliance with Task 65: Referral to OAG of Specific Dismissed Charges

Task 65	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 65 stipulates that:

65. The State Police shall refer to the OAG and/or PSB for investigation of state trooper performance all incidents in which a civilian is charged by a state trooper with obstruction of official business, resisting arrest, assault on a state trooper, or disorderly conduct, where the prosecutor's office or a judge dismisses the charge before or during trial and the dismissal is not part of the plea agreement.

Methodology

Members of the monitoring team during the May 2003 determined that the September 6, 2002 correspondence from the Superintendent to the Director of the Office of State Police Affairs and the previously issued Attorney General's Directive remain the primary governing documents that memorialize the State's compliance with this requirement.

Status

The State remains in compliance with this paragraph, based on past performance, although a review of this reporting period determined that the Office of Professional Standards did not receive any referrals from the Division of Criminal Justice as defined in this requirement.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.41 Compliance with Task 66: Notice to Office of State Police Affairs of Pending Civil Actions

Task 66	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 66 stipulates that:

66. The state shall notify the OAG whenever a person files a civil claim against the state alleging misconduct by a state trooper or other employee of the State Police. The OAG shall notify the PSB of such civil claims.

Methodology

During the May 2003 site visit, the monitoring team requested and received documentation that supported the State's continued compliance with this requirement. A review of the relevant material determined that the State received fourteen "Notices of Claim" during this reporting period. The "Reportable Incident Forms" appropriately document the relevant information and incident control numbers.

Status

The State continues to remain in compliance with this requirement as evidenced by their production of fourteen "Reportable Incident Forms" and an abstract produced by the Attorney General's Office which oversees the "Department of Law," a major component of the "Department of Law and Public Safety." Documentation reviewed indicate that the notice of civil claim process continues to function within OPS and OAG. During the eighth reporting period, three completed misconduct investigations were reviewed by the monitors that were generated as a result of these notices.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.42 Compliance with task 67: Notice of Criminal Involvement of Members

Task 67	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	Blue											
Phase II	Yellow/Black Diagonal											

Task 67 stipulates that:

67. The state shall make reasonable efforts to implement a method by which it will be notified of a finding in criminal proceeding of a constitutional violation or misconduct by a state trooper.

Methodology

During the May 2003 site visit, the independent monitoring team examined an OPS form titled, "Intake and Adjudication Section, Adjudicated Charges Against Members of the New Jersey State Police." The form captured twelve incidences of misconduct findings as adjudicated in the courts. These resulted in OPS investigations.

Status

The monitoring team, during the May 2003 site visit noted that the Attorney General's Directive which advises the county prosecutors to notify the State when a violation articulated in this requirement occurs, continues to be in effect

The monitoring team will continue to review each of the OAG or OPS investigations completed as a part of the State's case-by-case review of possible misconduct engendered by former employees' statements regarding racial profiling. The statement made by a former member of the New Jersey State Police has resulted in an on-going inquiry. Once that investigation is complete, members of the monitoring team will review the results of the investigation to ensure the process was conducted in compliance with the requirements of the consent decree.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.43 Compliance with Task 68: Notice of Adverse Involvement

Task 68	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 68 stipulates that:

68. The State Police shall require all state troopers promptly to notify the State Police of the following: the trooper is arrested or criminally charged for any conduct; the trooper is named as a party in any civil suit involving his or her conduct while on duty (or otherwise while acting in an official capacity); or the trooper is named as a party in any civil suit regarding off-duty conduct (while not acting in an official capacity) that alleges racial bias, physical violence, or threats of physical violence by the trooper. State troopers shall report this information either directly to the PSB or to a supervisor who shall report the information to the PSB. The PSB shall notify the OAG of PSB's receipt of this information.

Methodology

During the May 2003 site visit, the independent monitoring team requested documentation supportive of the State's compliance with this requirement. The

monitoring team reviewed a "Reportable Incident Form" in which a trooper self-reported an incident consistent with the nature of the violations articulated in this requirement.

Status

The monitoring team determined that during this reporting period the State remains in compliance with the requirements of this paragraph.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.44 Compliance with Task 69: Duty to Report Misconduct

Task 69	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Pattern]											
Phase II	[Pattern]											

Task 69 stipulates that:

69. The State Police shall require state troopers to report, based on personal knowledge, any conduct by other troopers, involving civilians, that reasonably appears to constitute: (a) prohibited discrimination; (b) an unreasonable use of force or a threat of force; (c) an intentional constitutional violation; (d) an intentional failure to follow any of the documentation requirements of this Decree, or (e) an intentional provision of false information in a misconduct investigation or in any report, log, or transmittal of information to the communications center. State troopers shall report such misconduct by fellow troopers either directly to the PSB or to a supervisor who shall report the allegation to the PSB. The PSB shall notify the OAG of PSB's receipt of this information.

Methodology

No changes in State Police policy regarding this task were noted by the monitoring team during the May 2003 site visit.

Status

Members of the monitoring team, during the May 2003 site visit determined that of the misconduct cases completed and reviewed by the monitors during this reporting period, no complaints, of the type articulated in this task were present. The State remains in compliance with this task based on past performance.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.45 Compliance with Task 70: Creation of the Office of Professional Standards

Task 70	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Bar]											
Phase II	[Bar]	[Bar]	[Bar]	[Bar]	[Bar]	[Bar]						

Task 70 stipulates that:

70. The State Police shall provide for a Professional Standards Bureau, the purpose of which shall be to protect the professional integrity of the Division of State Police and to fully, fairly and expeditiously investigate and resolve complaints and other misconduct investigations. The state shall provide the PSB sufficient staff, funds, and resources to perform the functions required by this Decree. The state shall encourage highly qualified candidates to become PSB investigators.

Methodology

During the May 2003 site visit, the monitoring team determined that the function currently has 73 personnel; 52 sworn and 21 civilians. There are three vacancies for sworn personnel and six for civilian. While this figure is slightly less than the aggregate number of personnel noted during the monitoring team's last site visit, it was noted that the backlog has dramatically decreased and the number of personnel assigned to the function appears to be an adequate allocation of resources to meet the caseload demand.

Status

Though there is a total of nine vacancies, the monitoring team notes that there is an active, ongoing process to fill these positions. The monitoring team, in its interview with the OPS leadership, determined that new policy requires that all misconduct investigations be conducted by the OPS and the practice of “farmouts” to the troop commands be discontinued. The monitoring team reviewed a recent teletype to Division personnel recruiting their interest in OPS assignment. The teletype outlines a list of qualifications that properly represent selection criteria.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.46 Compliance with Task 71: Formal Eligibility Requirements for PSB

Task 71	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 71 stipulates that:

71. The Superintendent of the State Police shall establish formal eligibility criteria for the head of the PSB and for staff who supervise or conduct internal investigations. These criteria shall apply to the incumbent PSB head and investigative staff, and all candidates for these positions, and also shall be used to monitor the performance of persons serving in these positions. The criteria shall address, inter alia, prior investigative experience and training, analytic and writing skills, interpersonal and communication skills, cultural and community sensitivity, commitment to police integrity, and previous performance as a law enforcement officer.

Methodology

During the May 2003 site visit, the monitoring team reviewed the eligibility criteria and determined that no substantive changes were promulgated since the last site visit.

Status

The monitoring team, during the May 2003 site visit determined that the OPS function continues to utilize the standard New Jersey State Police Form 33,

“Performance Evaluation” as its principal instrument to assess its personnel. The unit continues to supplement this form with its own “OPS Investigator Performance Monitoring” to more specifically evaluate the unique skills and performance expectations of those personnel assigned to the OPS. The monitoring team determined that the document continues to appropriately captures the requisite skill sets for personnel assigned to OPS, and thus, OPS is recruiting personnel with the skills identified in this task. The monitoring team examined the most recent division-wide teletype solicitation to personnel interested in OPS assignments and found the solicitation appropriately articulates the criteria essential for assignment and selection criteria.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

Task 72 stipulates that:

2.47 Compliance with Task 72: Execution of Training for Office of Professional Standards Staff

Task 72	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 72 stipulates:

72. The state shall ensure that the PSB head and staff that supervise or conduct internal investigations receive adequate training to enable them to carry out their duties. The training shall continue to include the following: misconduct investigation techniques; interviewing skills; observation skills; report writing; criminal law and procedure; court procedures; rules of evidence; and disciplinary and administrative procedures.

Methodology

During the May 2003 site visit, members of the monitoring team reviewed the OPS general training plan and individual training sessions attended by OPS personnel for the months of October and November 2002 and January and February 2003. Members of the Office of Professional Standards continue to

attend courses that are held locally, regionally and nationally that support enhancement of skill sets essential to the performance of their duties.

Status

The monitoring team determined during the May 2003 site visit that the State continues to recognize the importance of assuring that OPS personnel are properly trained in skill areas supportive of unit mission. During the eighth reporting period, all members of OPS received some form of training related to their tasks. Members of OPS now go to the training Academy at Sea Girt for specialized training twice each year.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.48 Compliance with Task 73: Initiation of Misconduct Investigations

Task 73	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 73 stipulates that:

- 73. A misconduct investigation shall be initiated pursuant to any of the following:**
- a. the making of a complaint (as defined in ¶16);**
 - b. a referral pursuant to ¶37 or ¶65;**
 - c. the filing of a civil suit by a civilian alleging any misconduct by a state trooper while on duty (or acting in an official capacity);**
 - d. the filing of a civil suit against a state trooper for off-duty conduct (while not acting in an official capacity) that alleges racial bias, physical violence, or threat of physical violence; and**
 - e. a criminal arrest of or filing of a criminal charge against a state trooper.**

Methodology

During the May 2003 site visit, the independent monitoring team observed the IA Pro system and its ability to produce the number of "Reportable Incident Forms" for this reporting period.

Status

During this reporting period, there were 497 cases opened as evidenced by the "Reportable Incident Forms." The sources of these cases were Compliment/Complaint, 8; E-Mail, 9; External, 60; Fax, 10; Hotline, 76; Internal, 97; Mail, 38; Notice of Claim, 10; Telephone, 153; Self-Reported, 19; Supervisory MVR Review, 1; Walk-In, 35 and Anonymous Complaint, 10, though a single "Reportable Incident Form" may have been opened through a multiple of sources.

In addition, of the 104 cases reviewed by the monitors this reporting period (of 175 completed this period) three were found to have been initiated as a result of notice of filing of civil suits against personnel or against the New Jersey State Police. The State is judged to remain in compliance with this task.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.49 Compliance with Task 74: Responsibility for Conducting Internal Investigations

Task 74	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 74 stipulates that:

74. All misconduct investigations shall be conducted by the PSB or the OAG except as delegated to the chain-of-command supervisors. Assignment of misconduct investigations will be made as follows:

- a. The PSB or the OAG shall conduct misconduct investigations in the following circumstances:**
 - i. all complaints alleging a discriminatory motor vehicle stop; all complaints alleging an improper enforcement action or procedure in connection with or during the course of a motor vehicle stop; and all complaints alleging excessive force in connection with any motor vehicle stop;**

- ii. all complaints relating to any motor vehicle stop where a State Police supervisor either was at the incident scene when the alleged misconduct occurred or was involved in planning the State Police action whose implementation led to the complaint;
 - iii. any misconduct investigation undertaken pursuant to any event identified in subparagraphs (b) through (e) of ¶173; and
 - iv. any other category of misconduct complaints or any individual misconduct complaint that the OAG and/or State Police determines should be investigated by PSB or OAG. The State Police may continue to assign misconduct investigations not undertaken by the OAG or PSB to the chain-of-command supervisors.
- b. The PSB and the OAG shall review all misconduct complaints as they are received to determine whether they meet the criteria (set forth in subparagraph (a) above) for being investigated by the PSB, the OAG or being delegated to a chain-of-command supervisor. Nothing in this decree is intended to affect the allocation of misconduct investigations between the PSB and the OAG.

Methodology

During the May 2003 site visit, the monitoring team determined that SOP B-10 continues to govern requisite procedures fundamental to compliance with the provisions of this paragraph.

Status

During the May 2003 site visit the independent monitoring team examined the "OPS Incident Classification" form and determined that it is appropriately used to assure that case assignment and allocation are properly assigned and consistent with the provisions of this requirement. Further, a review of closed cases for this reporting period indicated that all cases had been appropriately assigned for investigation, and that no cases that should have been completed by OPS were assigned to chain-of-command for investigation.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.50 Compliance with Task 75: Prohibition of Conflict of Interest in Investigations

Task 75	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												
												

Task 75 stipulates that:

75. The state shall prohibit any state trooper who has a conflict of interest related to a pending misconduct investigation from participating in any way in the conduct or review of that investigation.

Methodology

Members of the monitoring team during the May 2003 site visit determined that all previous documents reviewed by the monitoring team remain properly incorporated into SOP B-10, III, E, (b) 8.

Status

The monitoring team determined that no conflicts of interest occurred during this reporting period. The monitoring period reviewed the OPS internal file titled, "Conflict of Interest" and concluded that the unit has a sufficient and adequate process to solicit and act upon conflict of interest matters as such pertain to those who might be engaged in the investigatory, management and review process. The monitors' review of closed investigations for this reporting period determined no conflicts of interest between investigative personnel and principals of the investigations.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.51 Compliance with Task 76: Prohibition of Group Interviews

Task 76	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												
												

Task 76 stipulates that:

76. All written or recorded interviews shall be maintained as part of the investigative file. The state shall not conduct group interviews and shall not accept a written statement from any state trooper in lieu of an interview.

Methodology

Members of the monitoring team, during the May 2003 site visit determined that the State, through regular reviews by the Office of State Police Affairs, continue to assess OPS compliance with this requirement. Members of the monitoring team reviewed 104 completed complaint investigations (of 175 completed this period) for evidence of group interviews or written statements from troopers in lieu of an interview.

Status

Members of the OPS receive annual training to reinforce the provisions of this requirement. The Office of State Police Affairs of the Office of the Attorney General regularly audits the OPS and found no circumstances violative of this requirement. No group interviews or written statements in lieu of an interview were found in any of the cases reviewed by the monitoring team. The State is judged to remain in compliance with this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.52 Compliance with Task 77: Alternative Locations for Interviews

Task 77	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 77 stipulates that:

77. The state shall arrange a convenient time and place, including by telephone (or TDD), to interview civilians for misconduct investigations. The State Police shall reasonably accommodate civilians' circumstances to facilitate the progress of an investigation. This may include holding an interview at a location other than a

state office or at a time other than regular business hours.

Methodology

The Office of State Police Affairs continues to closely scrutinize the Division's compliance with this requirement. Members of the monitoring team reviewed 104 of the internal complaint investigations completed during this reporting period for evidence of implementation of this requirement.

Status

During the May 2003 site visit, members of the monitoring team reviewed an internal investigative report that clearly memorialized that a witness was interviewed at her residence. There is sufficient evidence in the case files reviewed this period to indicate that complainants and witnesses are interviewed at places of their convenience. The State is judged to remain in compliance with this Task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.53 Compliance with Task 78: Investigation of Collateral Misconduct

Task 78	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	Blue											
Phase II	Yellow/Black Stripes											

Task 78 stipulates that:

78. In conducting misconduct investigations, the state shall assess the propriety of all state trooper conduct during the incident in which the alleged misconduct occurred. If during the course of an investigation the investigator has reason to believe that misconduct occurred other than that alleged, and that potential misconduct is one of the types identified in ¶69, the investigator also shall investigate the additional potential misconduct to its logical conclusion.

Methodology

No changes in New Jersey State Police policies regarding this task were made since the last site visit. The Office of State Police Affairs continues to closely scrutinize the Division’s compliance with this requirement. Members of the monitoring team reviewed 104 of the 175 internal complaint investigations completed during this reporting period for evidence of implementation of this requirement.

Status

During the May 2003 site visit, the monitoring team reviewed a “New Principal Allegation Form” which clearly documented that OPS had identified a collateral matter during the course of an investigation and had acted appropriately in its follow thru. Of the cases reviewed by the monitors this period, there were 37 instances that indicated a need to pursue collateral matters. Initiation of collateral misconduct investigations were undertaken in all of these instances. This constitutes an error rate of zero percent, well within the allowable margin of error of five percent. The State is judged to remain in compliance with this task.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.54 Compliance with Task 80: Revision of the “Internal Investigations Manual”

Task 80	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 80 stipulates that:

80. The state shall update its manual for conducting misconduct investigations to assure that it is consistent with the recommendations contained in the Final Report and the requirements of this Decree.

Methodology

During the May 2003 site visit, the monitoring team determined that a new iteration of the Internal Affairs Investigation Manual has been completed and is pending the approval of the Superintendent.

Status

The current IA Manual and the supporting SOP B-10 remain the governing documents. During its next site visit, the monitoring team will review the newest iteration of the IA Manual to assure that it continues to comport with the requirements of the decree. The State is judged to remain in compliance with this task.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

Compliance with Task 81: Preponderance of the Evidence Standard for Internal Investigations

Task 81	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 81 stipulates that:

81. The state shall make findings based on a "preponderance of the evidence" standard.

Methodology

Members of the monitoring team, during the May 2003 site visit determined that the Office of State Police Affairs continues to assess the Division's compliance with this requirement through its "Case Content Analysis Form." Established policy requires a preponderance of the evidence standard.

Status

The monitoring team reviewed 104 of the 175 cases completed by OPS for this reporting period. All were found to have used the preponderance of evidence standard in developing their findings. The State remains in compliance with this task.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

Compliance with Task 82: MVR Tape Review in Internal Investigations

Task 82	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 82 stipulates that:

82. If the incident that is the subject of the misconduct investigation was recorded on an MVR tape, that tape shall be reviewed as part of the misconduct investigation.

Methodology

During the May 2003 site visit, the monitoring team reviewed "Internal Investigation Reports" that indicated a need to review the MVR tape associated with the complaint generating the investigation.

Status

Members of the monitoring team reviewed 104 cases completed during this reporting period and found 32 that indicated a need to review an in-car MVR. All 32 of these cases included an appropriate MVR tape review by the assigned OPS investigator. The State is judged to remain in compliance with this task.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

Task 83	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 83 stipulates that:

83. In each misconduct investigation, the state shall consider circumstantial evidence, as appropriate, and make credibility determinations, if feasible. There shall be no automatic preference for a state trooper's statement over a civilian's statement. Similarly, there shall be no automatic judgment that there is insufficient information to make a credibility determination where the only or principal information about an incident is the conflicting statements of the involved trooper and civilian.

Methodology

The monitoring team, during the May 2003 site visit determined that SOP B-10 continues to properly addresses this issue. Additionally, training provided during this reporting period to current and new OPS personnel specifically addressed this issue.

Status

The monitoring team, during its review of 104 of 175 cases completed during this reporting period, determined that conclusions continue to be in conformance with the requirements of the policies approved by the monitors and the Department of Justice. An error rate of zero of 104 cases constitutes zero percent, well within the allowable margin of error.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.58 Compliance with Task 84: Required Case Dispositions in Internal Investigations

Task 84	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 84 stipulates that:

- 84. The state shall continue to resolve each allegation in a misconduct investigation by making one of the following dispositions:**
- a. "Substantiated," where a preponderance of the evidence shows that a state trooper violated State Police rules, regulations, protocols, standard operating procedures, directives or training;**
 - b. "Unfounded," where a preponderance of the evidence shows that the alleged misconduct did not occur;**
 - c. "Exonerated," where a preponderance of the evidence shows that the alleged conduct did occur but did not violate State Police rules, regulations, operating procedures, directives or training; and**
 - d. "Insufficient evidence" (formerly "unsubstantiated"), where there is insufficient evidence to decide whether the alleged misconduct occurred.**

Methodology

The monitoring team, during its May 2003 site visit determined that the State has established a variety of review processes to assure compliance with the provisions of this requirement. Additionally, current and new members of the OPS receive annual refresher training that included the requirements as articulated in this paragraph.

Status

A review of completed cases for this reporting period indicated no dispositions other than those allowed by this paragraph. The State is judged to remain in compliance with this task.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.59 Compliance with Task 85: No Closure upon Withdrawal of Complaint

Task 85	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 85 stipulates that:

85. The state shall not close any misconduct investigation without rendering one of the dispositions identified above. Withdrawal of a complaint or unavailability of the complainant or the victim of the alleged misconduct to make a statement shall not be a basis for closing an investigation without further attempt at investigation. The state shall investigate such matters to the extent reasonably possible to determine whether or not the allegations can be corroborated.

Methodology

During its May 2003 site visit, the monitoring team reviewed a specific case in which an investigation was continued in the aftermath of a withdrawn complainant.

Status

The monitoring team, in its review of cases completed during this reporting period found no indications of withdrawn complaints or complainant unavailability. The Office of State Police Affairs continues to monitor the Division's compliance with this requirement through their "Case Content Analysis Form." The monitors have found no indication of a tendency to discontinue investigations upon withdrawal of a complaint or failure to cooperate with an investigative effort. The State is judged to remain in compliance with this requirement based on past performance.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.60 Compliance with Task 86: Development of a Final Investigative Report

Task 86	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	█											
Phase II	█	█										

Task 86 stipulates that:

86. At the conclusion of each misconduct investigation, the individual responsible for the investigation shall issue a report on the investigation, which shall be made a part of the investigation file. The report shall include a description of the alleged misconduct and any other misconduct issues identified during the course of the investigation; a summary and analysis of all relevant evidence gathered during the investigation; and findings and analysis supporting the findings.

Methodology

During the May 2003 site visit, the monitoring team determined that the State continues to use the Internal Affairs Investigation Manual as the policy guidance for this requirement, though there is currently pending, a revised Internal Investigation Manual. During the site visit, the monitoring team reviewed 104 completed "Internal Investigation Reports," and determined 97 of them to be complete and in compliance with the provisions of the decree relevant to substance and quality. The monitoring team also reviewed two Inter-Office Communications between supervisors in the OPS and subordinate investigators that noted deficiencies or omissions in investigations that did not meet the provisions of this requirement and warranted additional effort.

Status

The monitoring team's review of completed misconduct investigations for this reporting period found that two investigations failed to comport with the requirements articulated in this requirement. These two cases were returned for the following reasons:

- Failure to use a proper case disposition; and
- Failure to aggressively investigate allegations of misconduct.

An error rate of 2 of 104 cases constitute 1.9 percent, within the allowable margin of error for this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.61 Compliance with Task 87: State to Attempt to Complete Investigations within 45 Days

Task 87	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												
												

Task 87 stipulates that:

87. The State Police shall continue to attempt to complete misconduct investigations within forty-five (45) days after assignment to an investigator.

Methodology

The parties, with the concurrence of the monitors, have agreed to a 120-day timetable for completion of investigation of complaints made by citizens. The State advised the monitors that it has worked diligently to improve the completion cycle for investigations of complaints made by citizens and by virtue of a new State statute has internally required a forty-five day completion cycle.

Status

The State continues to attempt to complete misconduct investigations within the revised 120-day period. The State advised the monitors that investigators must function under an expectation that their investigative efforts are to be completed within forty-five days. The monitors determined through a review of cases completed during this reporting period that all were completed within the 120 day time period.

Compliance:

Phase I: In Compliance

Phase II: In Compliance

2.62 Compliance with Task 88: Imposition of Appropriate Discipline upon Sustained Complaint

Task 88	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												
												

Task 88 stipulates that:

88. The State Police shall discipline any state trooper who is the subject of a substantiated misconduct adjudication or disposition regarding: (a) prohibited discrimination; (b) an unreasonable use of force or a threat of force; (c) an intentional constitutional violation; (d) an intentional failure to follow any of the documentation requirements of this Decree, (e) an intentional provision of false information in a misconduct investigation or in any report, log, or transmittal of information to the communications center; or (f) a failure to comply with the requirement of ¶169 to report misconduct by another trooper.

Methodology

The monitoring team, during its May 2003 site visit, reviewed IA Pro generated abstracts of completed cases for sustained complaints and assessed the discipline imposed in these matters.

Status

The monitoring team reviewed copies of reprimands issued to troopers for matters completed during this reporting period. The monitoring team continues to observe a consistent pattern of imposing discipline consistent with investigative findings. The monitors have advised the parties that they consider discipline to be the purview of the Superintendent, and will question disciplinary decisions only on the most solid of grounds. The monitors noted 32 substantiated cases in those that they reviewed this reporting period. Discipline was determined and applied in each of these 32 cases.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.63 Compliance with Task 89: Imposition of Appropriate Discipline upon Finding of Guilt or Liability

Task 89	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 89 stipulates that:

89. The State Police shall initiate disciplinary proceedings against any state trooper who is found guilty or who enters a plea in a criminal case regarding on-duty conduct; any state trooper found civilly liable for misconduct of the type identified in ¶88 committed on duty or whose misconduct of the type identified in ¶88 is the basis for the state being found civilly liable; and any state trooper who is found by a judge in a criminal case to have committed an intentional constitutional violation. The State Police shall discipline any state trooper who is determined to have committed the misconduct set forth in this paragraph.

Methodology

The monitoring team, during its May 2003 site visit, reviewed SOP B-10, III, G and determined that it remains supportive of the provisions of this requirement. The monitoring team, as a result of a direct inquiry to the State, determined that no instances of this type occurred in this reporting period.

Status

While there were no investigations of this nature completed during this reporting period, the monitors are satisfied that the State continues to keep in place processes necessary to address such matters should they occur. The State remains in compliance with this task based on past performance.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.64 Compliance with Task 90: Imposition of Appropriate Discipline in Consultation with MAPPs

Task 90	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 90 stipulates that:

90. In deciding the appropriate discipline or intervention for each state trooper who is the subject of a "substantiated" adjudication or disposition in a misconduct investigation and each trooper who is to be disciplined pursuant to ¶89, the state shall consider the nature and scope of the misconduct and the information in the MAP. In all instances where the state substantiates a misconduct allegation regarding matters identified in ¶88 or disciplines a trooper pursuant to ¶89, it shall also require that intervention be instituted (except where the discipline is termination). Where a misconduct allegation is not substantiated, the state shall consider the information in the investigation file and in the MAP to determine whether intervention should be instituted.

Methodology

Members of the monitoring team during the May 2003 site visit determined that the State continues to address compliance with this requirement in SOP B-10, III, H as it pertains to Phase I compliance.

Status

The State advises that the OPS function has substantially met a considerable number of its functional MAPPS requirements but the system has yet to be fully operationalized throughout the Division. Until MAPPS is on-line members of the monitoring team will be unable to assess the degree to which the State bases disciplinary decisions in light of the past history of the troopers in question. There is currently no reasonable method to identify the "past history" of individual troopers without substantial effort of reviewing hard-copy documentation.

The State routinely considers implementation of "interventions," even in cases that are not substantiated. OSPA assesses this aspect of internal investigative process in its "Case Content Analysis Form" for every completed OPS investigation. To date, the monitors have not noted any needed "interventions" that have not been provided, however, it is extremely difficult, absent a working MAPPS system (which can readily provide a detailed intervention and OPS history for individual troopers), to assess the efficacy of these determinations. Until a functioning MAPPS is brought on-line, the State will remain out of Phase II compliance with this task.

Compliance

Phase I: In Compliance
 Phase II: Not in Compliance

2.65 Compliance with Task 91: Tracking of Open Office of Professional Standards Cases

Task 91	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 91 stipulates that:

91. The PSB shall track all open misconduct investigations to ensure that investigations are completed in a timely fashion. Within one hundred twenty (120) days following entry of this Decree, the state shall develop a plan for designing and implementing a computerized tracking system (including a timetable for implementation).

Methodology

The monitoring team, during the October May 2003 site visit made several observations of the IA Pro software. The technology has become a central instrument in the daily operations of the OPS function and in the management of the cases the unit addresses.

Status

The monitoring team determined that the IA Pro system is now accessible through the Freehold facility and is being expanded so it might be used at any facility that is part of the OPS function. It has the ability to identify all open and closed cases in the OPS system, and data were provided to the monitors in electronic form from the system, for the first time, this reporting period.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.66 Compliance with Task 92: Inform the Complainant upon Resolution of Investigations

Task 92	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 92 stipulates that:

92. After a misconduct complaint is finally resolved by the State Police, the State Police shall inform the complainant of the resolution in writing, including the investigation's significant dates, general allegations, and disposition, including whether discipline was imposed.

Methodology

The monitoring team reviewed 104 of the 175 cases completed during this reporting period. Representatives of the Office of State Police Affairs, through a "Case Content Analysis Process, similarly review all investigative files for compliance with provisions of this paragraph.

Status

Each case reviewed by the monitoring team in which a complainant was identified included required copies of disposition letters to the complainant containing the required, relevant information as outlined in the provisions of this paragraph. Two of the 104 case reviews conducted by the monitors for this period contained letters mailed to the complainant nine and eight months after the completion of the investigation. Obviously, these are not timely notifications. An error rate of two of 104 cases reviewed constitutes 1.9 percent, well within the allowable margin of error. The State remains in compliance with this task based on performance observed this period.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.67 Training Assessment

2.67.1 Introduction

The following sections of this report deal with the process of training, as delineated in the consent decree, tasks 93-109. An in-depth review of each of these tasks is presented under each individual task number. As a reminder to the reader, all training products in the consent decree are audited using the following training cycle:

1. Assessment
 - Of the needs within the agency;
 - Of the current professional standards and practices related to the topic;
2. Development of training content and training aids;
3. Delivery utilizing the current best practices in adult learning;
4. Evaluation of the effectiveness of the training content and the training delivery;
5. Revision of the training materials and delivery based upon the evaluation of each;
6. Evaluation of the operational implementation of the practices taught; and
7. Documentation of all the above steps in the training cycle.

Since the last site visit a new superintendent for the New Jersey State Police, and a new director of the Office of State Police Affairs have been appointed. The open exchange of information with Academy staff, and with the Office of State Police Affairs that was so notable during the last site visit was even more evident during this site visit.

The monitoring team is concerned about seven specific aspects of Academy operations this reporting period (some of which carry over from last period). These six areas are:

1. Lack of inclusion of Academy staff in oversight issues relative to training;
2. Continued problems with staffing at the Academy;
3. Execution of decree-related oversight responsibilities at the Academy;
4. Use of data in planning processes at the Academy;
5. Implementation of regionalized training at the New Jersey State Police; and
6. Recruit class scheduling at the Academy.

Each of these concerns is discussed below, generally, and in relation to compliance in the appropriate sections of the training report that follow.

Lack of Inclusion/Collaboration on Programmatic/Training/Oversight Issues

Since the last site visit, two programmatic/evaluative training initiatives have been put into motion that affect directly on consent decree training tasks. When the monitoring team requested information about these initiatives, it became clear that they had not originated in the Office of State Police Affairs or the New Jersey State Police, were not coordinated through the Office of State Police Affairs, the New Jersey State Police, or the Academy, and were actually occurring at a level of authority beyond the oversight of the Office of State Police Affairs. These initiatives apparently did not incorporate the training cycle process, did not fall within parameters established to assure compliance, and had the potential of threatening compliance already attained in at least one task.¹³

One initiative contracted with an outside entity to develop an executive training institute for law enforcement in New Jersey. The monitors have been unable to validate several consent-decree related processes relative to this training development, i.e., there appears to have been no substantive involvement of the Academy staff in the oversight for assessment, development, delivery, evaluation, field implementation or documentation of this training (see Tasks 93 and 106). The monitors are concerned that this failure will threaten the compliance of training developed for tasks 106 and 107.

The second initiative involves the use of a CD of training material, developed by an outside consultant three years ago, to address the ethics training that does not meet compliance standards (see Task 100). Again, the monitors were unable to validate application of the development cycle *viz a viz* this CD-based training. As such, its use may threaten compliance for ethics training tasks outlined in Task 100.¹⁴

The monitors view the Academy staff at the New Jersey State Police as the training experts responsible for the development and oversight for each consent decree training task. The Office of State Police Affairs was formed as a mandate of the consent decree to provide oversight for the implementation of the entire

¹³ Since the monitors brought these issues to the attention of the State, steps have been taken to remedy the deficiencies noted in the oversight and development-cycle processes. These steps were taken, obviously, after May, 2003.

¹⁴ Since the monitors brought these issues to the attention of the State, the use of this CD was postponed until an assessment could be made of its conformance to curriculum development processes stipulated by the monitoring team.

decree and to provide direct assistance with some of the tasks. The monitoring team is very concerned about the manner in which decisions that directly affect compliance with the consent decree training tasks are being conducted, as they appear to be circumventing the two units that are required to fulfill and/or to provide oversight for these tasks.

Staffing

The monitors have expressed concern about academy staffing, both informally (since the second reporting period) and formally (since the delivery of the decree-required monitors' assessment of training during the second reporting period). The monitors, at the time they delivered their training evaluation in the second reporting period, expressed a concern that the academy was understaffed given the tasks expected of the training process as compliance with the decree was pursued. This sentiment was relayed to the then Superintendent, the then-Attorney General, and members of the Office of State Police Affairs. In the fifth monitors' report, the monitors noted that areas of non-compliance at the Academy were due "the monitoring team believes, to significant levels of understaffing at the academy" (IMR 5, p. 93). The monitors reminded the State, in the fifth monitoring report, that they had raised concerns about academy staffing in their second-quarter training evaluation, and further noted: "The concerns of the monitoring team have now, it appears, come to fruition. Given the crush of development and delivery work, and an extremely limited staff with which to meet heightened demands, the management staff of the academy have chosen to develop and deliver at the expense of the remaining phases of the training process: needs assessment, evaluation and documentation" (IMR 5, p. 93). In the sixth monitors' report, the monitors noted continued problems with compliance at the academy "due to significant levels of understaffing at the academy and to protracted delays in providing the academy staff with the resources necessary" (IMR 6, p. 96). The monitors further noted: "The monitoring team continues to have concerns about staffing at the academy as evidenced by the monitor receiving several iterations of a continuously changing staffing list as people were moved, replaced, and reshuffled during the week of the site visit to meet the needs of the on-going programs. Qualified training staff is a priority. Allowing the qualified training staff the time to see an assignment through the phases of the training cycle is equally important" (IMR 6, p. 97).

In the seventh monitors' report, the monitors continued to express concern about academy staffing levels, noting "During past monitoring reports for training activities, the monitoring team identified several concerns leading to findings of non-compliance with the training function. The monitors also noted that the monitoring team felt that these findings were in no way due to

resistance or reluctance on the part of the academy to comply, but were, in the monitoring team's view, due to significant levels of understaffing at the academy. The monitoring team has repeatedly voiced this concern over the past two years, both in meetings with the previous directors of the Office of State Police Affairs and in the written monitoring reports. After this site visit the staffing issue remains a **major concern** of the monitoring team because staffing impacts directly on all the consent decree related training tasks" (IMR 7, p. 105).

A previous initiative engaged an outside organization to complete a manpower study of the Academy and resulted in a report that, when analyzed, provided very little useful information and has resulted in no increased staffing for the Academy. The monitors provided the State with a detailed assessment of this external "staffing analysis," identifying its weaknesses and offering an outline of a staffing analytic method that has been used successfully elsewhere. As of this report, however, no response to the critical and on-going staffing issues at the Academy has been undertaken by the State. In fact, staffing decision by the former superintendent have apparently adversely affected staffing for Academy functions.

Since the monitors have raised the issue of staffing with the State, staff assigned to the Academy has actually **declined**. During the eighth reporting period, the monitors found the State in non-compliance with an additional task, Task 97, a loss of compliance directly attributable, in the monitors' view, to a failure to adequately staff the academy. Obviously, the issue of staffing at the academy has not been resolved, and is beginning to affect compliance with the decree.

Oversight Responsibility

The third major concern in the last report was related to the oversight process for training. An analysis of after-action training reports revealed that a large number of troopers had not attended mandatory training. This concern seems to have been addressed adequately in terms of putting an informational exchange process into place with the Office of Human Resources and developing a clear tracking process with consequences for non-compliance (see task 101).

The oversight responsibility of the Academy for **all training** provided within the agency, but not conducted directly by Academy staff, and the oversight responsibility of the Academy for training contracted through an outside vendor does not seem to be clearly understood by top-level management. This lack of understanding is apparent because repeated instances of purposefully or inadvertently excluding the Academy from fulfilling the oversight function have occurred since the inception of the consent decree, and continue to occur. The Academy is required to present the monitoring team with documentation related

to such trainings that demonstrates that each phase of the training cycle (assessment, development, delivery, evaluation, implementation, and documentation) has been completed in order to achieve compliance. **The monitoring team will not judge any such training sessions or training products to be in compliance for consent decree related tasks if this deficiency is not corrected.**

Data Analysis and Utilization in the Planning and Oversight Processes

The fourth major concern, addressed in the last report, related to the continued lack of integration of the computerized training data into the oversight function, and the absence of comparative data analyses for consent decree related classes provided over the last three years. The monitoring team is concerned about the diminishing ability of the data management staff to remain current with training data management due to inadequate staffing (see task 108), and with the diminished ability to provide adequate technical expertise to Academy staff in the development and evaluation phases of training.

The establishment of the Compliance/Assessment Evaluation Office within the In-Service Unit is beginning to produce the analytical data on testing results for the recruit classes that was lacking in the past. Two positions in this unit remain vacant as well and staff development related to these specialized services has not yet occurred (see task 108).

Regionalized Training

The fourth major concern in the last report related to the move to regionalized training which will have a direct affect on the delivery, evaluation and oversight training functions of the Academy (see task 93). Implementation of strong oversight processes is critical, since Operations personnel are now performing some of the training cycle tasks. Several steps have been taken to provide a structure for the program, and these are addressed in the SOP C25. The monitoring team will be auditing data from this program as they become available.

Recruit Class Scheduling

The sixth major concern, also addressed in the last report, related to the scheduling of the recruit classes that began in January 2003. Two classes began in January and will graduate in June. Two classes began in April and will graduate in October. Academy staff who are responsible for these classes are also responsible for conducting advanced classes for the agency, so these classes are receiving a low priority due to lack of manpower. This problem has been

cited in previous reports as well, as it has been on-going for at least two years. The recruit classes require extensive staffing over a six-month time frame so improved coordination/collaboration between the Academy and the unit selecting and scheduling the start dates and class sizes for recruit classes could significantly assist the Academy in its staff allocation and scheduling of advanced classes.

2.68 Compliance with Task 93: Development and Evaluation of Quality of Training Programs

Task 93	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 93 stipulates that:

93. The New Jersey State Police shall continue to: oversee and ensure the quality of all training of state troopers; continue to develop and implement the State Police academy curriculum for training State Police recruits, and provide training for academy instructors; select and train state trooper coaches in coordination with and assistance from State Police supervisors; approve and supervise all post-academy training for state troopers, and develop and implement all post-academy training conducted by the State Police; provide training for State Police instructors who provide post-academy training; and establish procedures for evaluating all training (which shall include an evaluation of instructional content, the quality of instruction, and the implementation by state troopers of the practices and procedures being taught).

Methodology

Members of the monitoring team spoke with academy staff responsible for this task, and requested and reviewed staffing and manpower allocation data for the academy.

Status

Task 93 enumerates the areas of responsibility assigned to the academy through the consent decree.

Quality

The scope of the work, the oversight required, and the emphasis on quality at the Academy all require that staffing, with qualified personnel both sworn and non-sworn, be sufficient to accomplish this task, and that some stability in maintaining staff over time be a priority. To date staffing at the academy has been, in the opinion of the monitoring team, inadequate and unstable with frequent transfers of personnel in and out of the academy. The monitors have advised the past two superintendents that they believed the Academy to be dangerously understaffed, given the central role the Academy must play in order to assist in achieving compliance with the consent decree. The monitors have urged the State to have an independent staffing analysis conducted, and to act on the staffing issue at the Academy expeditiously.

As noted previously, a new table of organization was developed and implemented at the Academy since the last site visit. New units/positions have been organized to include Executive Development, Training Standards, Compliance/Assessment Evaluation, and a Training Coordinator. Though the diagram indicates depth in the Pre-Service/Advanced Unit, the six coordinators listed should be on a horizontal rather than a vertical plane since they all report directly to the Assistant Unit Head. The table shows 41 staff and four unfilled positions. An analysis of the staffing indicates that there are currently 32 staff actually available full-time. The staffing has decreased since the last site visit.

The Firearms/Armorer section was moved from the Logistics Bureau in the Administration Section to the In-Service Unit at the Academy bringing five positions with it, one of which is vacant. These personnel continue to perform the same duties they did before their transfer to the Academy, and offer no increase in staff available for other training duties. Subtracting these four positions and the one vacancy in this section leaves 37 staff and three unfilled positions. The placement of this section at the Academy makes sense, but it offers no increase in staffing.

Questions about the remaining staffing reveal that three personnel are detached to positions outside the Academy, one is on leave, and 1 is on light duty. Subtracting these five personnel leaves **32 Academy staff**. As mentioned in the introductory section, the Academy has the additional duty of physical re-qualifications, with no additional staff. When the Homeland Security alert level is raised higher than "Yellow", the Academy, like every other unit in the New Jersey State Police, can expect more staff to be detached to cover the increased security responsibility.

The table of organization does not list clerical personnel, but the inadequacy and instability of staffing in this area are evident as well to the monitors. Three permanent clerical positions vacated due to retirements in July 2002 were never filled. Instead, clerical staff from a temporary employment agency were hired to fill these positions. The In-Service Unit, responsible for the majority of consent decree related tasks, has no permanent clerical staff person assigned. The Pre-Service & Advanced Training Unit responsible for all recruit training and for advanced/special training, has one clerical staff person assigned.

The data management unit lost two highly skilled technology staff members due to transfers, and these positions have remained vacant for almost a year. This unit is part of the system that supports the documentation and the evaluation phases of the required training cycle. As a direct result of the staffing issues, the entry of data related to training (attendance, testing, etc.) is no longer current. This is an area of great concern to the monitoring team as it impacts directly on the maintenance and the oversight of consent decree related training tasks, and may, if not corrected, result in loss of compliance on several training tasks.

In summary, when the monitoring team counts the number of permanent staff, the number of vacant positions, and the number of detached positions, the staffing at the Academy at the time of the site visit was 32 (this does not include the few clerical staff who were not included on the table of organization). This number represents fewer staff at the Academy than during the previous site visit.

Requests for increased Academy personnel to staff the regional training initiative have been denied, and the duties were assigned to operational personnel in addition to other duties they previously had. How this decision will impact on quality remains to be seen, but it certainly increases the need for qualified training staff at the Academy to provide comprehensive oversight.

Training Oversight for All Academy and Post Academy Training

The new compliance/evaluation process located in the In-Service Unit, are addressing the issues of identifying the quality standards for training and for assuring compliance with those standards for both Academy-based and for post-Academy training that is occurring outside the Academy.

The Division of Training Standards was set up to provide oversight for all training efforts and has one sergeant assigned to staff this unit. However, he has been detached to the MAPPS Unit indefinitely. With the decision to regionalize training, the oversight function becomes critical to assure the quality and the integrity of training. This will require qualified training staff available to conduct field audits as part of that function, since a number of operational staff has been assigned to

engage in training functions. Though the unit is apparent on paper, the scope of its responsibilities, the systems supporting those responsibilities and the staff to implement those responsibilities are yet to be determined.

The Compliance/Assessment Evaluation Unit has three of the designated five staff positions filled, and is involved in evaluations of the recruit program. (See the recruit section below for details.) Oversight for post-Academy training occurring outside the Academy cannot be addressed until the entire universe of training that is occurring is identified. An attempt to accomplish this has been launched by the Academy In-Service Unit. The following steps have been taken:

1. A training request form has been developed which must be forwarded to the academy prior to the delivery of any training outside the academy. In addition to answering ten specific questions related to the training, all training materials must be forwarded to the academy with the request. The Field Training Officer/Field Training Liaison must review the materials for content accuracy and for non-bias. When this procedure is complied with, a major piece of the training oversight function of the academy will be achieved.
2. All instructors providing training within the division but outside of the academy are being identified in order to determine if they meet the qualifications mandated for trainers and the concomitant appropriate documentation.
3. A division training calendar is being developed to track all training on a yearly basis.

The Regional Training Initiative can provide a structure for the Academy to fulfill the post-academy training responsibilities enumerated in this task

The monitoring team continues to be concerned with the lack of a comprehensive strategic plan for this initiative. More pieces of the program have been implemented (e.g. new training liaisons have been assigned at the station level), but there is still no clear vision for this program, no clear identification of what functions it will fulfill, or of how and when the various stages of implementation will occur. Instead, as needs arise, directives are issued and staff is assigned without any broad understanding of how these decisions will impact on the division as a whole, and the Academy in particular.

The monitoring team notes that this method of "program planning and implementation" may inadvertently compromise the quality of training. The regional field staff assigned training, evaluation, and documentation tasks have not received any specialized staff development training related to these duties.

The final draft of SOP C25 was submitted to the monitoring team for review prior to approval, and with one revision related to oversight audits, meets the criteria for Phase I approval. The revision was forwarded to the training liaison for the Office of State Police Affairs and the Academy Commandant, accompanied by notification to the In-Service Director.

See Task 104 for details related to this topic.

Recruit Training

Revisions to the recruit curriculum have been an on-going process since the inception of the consent decree and are detailed in previous site visit reports. A staff person from the newly formed Compliance/Assessment/Evaluation Unit completed an analysis of some of the testing done with the 130th recruit class. His excellent report recounts the process used as well as his findings. Some of the steps in the process included determining the number of correct and incorrect responses for each question on each test, assessing trends, analyzing test construction, and interviewing instructors about material taught and handouts utilized. Based upon the findings, eighteen recommendations were developed including the need to give students credit for some wrong answers, the identification of out-of-date or inaccurate teaching materials, the need for revisions to some lesson plans and teaching techniques, and the revealing discovery that some of the ACTS files related to testing are corrupted and require attention. The final part of the report states that only seven of the eighteen recommendations have been implemented to date due to a lack staff needed to provide follow-up.

None of this information would be evident without conducting such an analysis, and the impact on the quality of the training is certainly self-evident based upon the findings. If these findings occurred in just one analysis of one recruit class, the need for such evaluations for all training conducted by the organization to insure the quality and accuracy of training is quite clear.

As a result of this analysis, testing for other units of the recruit training is underway and some substantial changes are being implemented in training delivery and evaluation for current and future recruit classes to help insure that recruits can apply what they are learning in an operational setting, and to provide oversight for the degree of understanding and application that is occurring in the recruit classes related to the training objectives **while they are in session**. The revisions include the following:

1. Each unit of instruction will include a written exam, a practical application assessment, and verbal discussion;

2. The entire program will be evaluated after graduation;
3. An evaluation and needs assessment will occur after two cycles on the coaching program and again after two cycles off the coaching program;
4. Follow-up on the five most frequently missed questions will include gathering data from the students, and the instructor with documentation of findings in a class unit and evaluation book;
5. Remediation will occur for the five most frequently missed questions;
6. The practical application scenarios will be videotaped with follow-up scenarios for recruits who have difficulty;
7. The videos will be used during class critiques using the objectives for the training unit in question as a basis for the critiques; and
8. The recruit class coordinator will provide oversight for remediation for individual recruits as necessary.

Pieces of this process were in place prior to this site visit, but now a more comprehensive process using videotaped practical scenarios has been developed. The implementation of this process requires that five additional days be added to the length of the recruit class and that Saturdays to be used for the scenarios since space at the academy is shared with other state agencies and is becoming less readily available.

Evaluation is one of the steps in the training cycle that the monitoring team uses as its standard for determining compliance. **To date, this is the most outstanding piece of evaluation that the monitoring team has seen related to training.** It was produced because a highly qualified staff person with the necessary skills in data analysis and computer technology, was allowed/encouraged by management to take a critical look at the processes and the materials that the academy is using to train recruits. In addition, this is the most comprehensive piece of revision to an existing program that has occurred, and it is the direct result of present capability (qualified staff) to conduct more thorough and in-depth analysis of data.

The quality inherent in the process just described is obvious, and it happened, not by design, but because the trooper had the knowledge and qualifications to see what needed to be done and then did it. This work demonstrates a very high level of capability in evaluation that can be accomplished at the academy that sets a new standard to be met for **all** the training programs.

This analysis initially involved collaboration between the pre-service unit and the in-service unit. The programmatic revisions led to a continuing partnership between the instructors of the pre-service unit and the evaluators of the in-service unit to implement the new initiatives cited in preceding paragraphs. This

is a demonstration of a very high degree of outstanding teamwork focused on insuring that recruits can perform competently. The divisions between units at the academy are beginning to blur as true teamwork and integration of services in pursuit of a common mission replace them.

This unit is not currently fully staffed, but the implications of the information provided and the statement that this sets a new standard of evaluation for all training programs should clearly reflect the immediate need to place a qualified person in charge of this unit and to have that person conduct staff development for the unit and for other academy staff in need of some degree of evaluation techniques and methodologies.

Training for Academy Instructors

The Instructor Training Course continues to fulfill this requirement, and all required documentation is present in the trainer's folders housed at the Academy

Trooper Coach Selection and Training

The selection of new coaches is in progress and appropriate training is scheduled to be provided.

Training Evaluation

The compliance and assessment evaluation process has been formed at the Academy, and five staff positions are listed, but only three positions are currently filled. This is a critical piece of the training process utilized to determine compliance with consent decree tasks. The structure has been created, but only partially staffed, and initial analyses of Academy-based training have begun. Obviously some means of extending this service to post-academy training must be devised and staffed as well.

Performance Implementation Evaluation

The evaluation of the implementation of the practices and procedures being taught can only be fully evaluated when the MAPPS system comes on-line and operational performance data can be analyzed on a large scale to determine if interactions with citizens are being performed in compliance with agency standards. The MAPPS is currently in the beta test stage at four sites in the Division by the end of the reporting period.

In the interim, the Academy In-Service Unit and the Office of Professional Standards are finalizing a collaborative process to provide retraining for troopers

who have substantiated complaints related to critical performance issues. This is the first, and a very important link in a process of addressing performance deficiencies with retraining to assure understanding and competence are achieved. This effort, along with increased supervision for a time by the immediate supervisor to document actual implementation of proper performance, would close a major loop in helping troopers master performance standards and protect the agency against liability.

A greater emphasis on, and a clearer linkage between, performance management and critical liability issues are beginning to emerge in revisions to the supervisor's curriculum which will prepare supervisors to address performance issues with their subordinates.

The monitoring team understands the financial constraints and the manpower issues occurring throughout the New Jersey State Police. The monitoring team also realizes that the superintendent and the director of the Office of State Police Affairs are both new to their positions. However, this issue has been cited in successive monitoring reports for two years without any significant signs of improvement or meaningful attempt at resolution. Rather, the situation continues to degrade.

During this site visit the state was placed under warning for Task 97 as a direct result of the cumulative effects of the long-standing lack of qualified staff at the Academy. The monitoring team foresees that complete compliance for all training tasks is unattainable until this major issue is substantially addressed both in terms of an adequate number of qualified staff and in the stability of that staffing over time.

The monitoring team commends the New Jersey State Police for its effort to reorganize the Academy. Many of the steps taken seem very appropriate, if long overdue. The monitoring team commends the Academy staff for continuing to strive to meet the compliance standards for the consent decree. Progress toward compliance is being made as well and as rapidly as is possible under the conditions cited above. Absent a meaningful resolution of the staffing issue the State is in danger of losing Phase I compliance with this task.

Compliance

Phase I:	In Compliance
Phase II:	Not In Compliance

2.69 Compliance with Task 97: Encourage Superior Troopers to Apply for Academy

Task 97	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 97 stipulates that:

97. The state shall continue to encourage superior troopers to apply for academy, post-academy, and trooper coach training positions.

Methodology

A member of the monitoring team spoke with academy staff responsible for this task, and reviewed documentation related to this task.

Status

Academy Training Staff

In a recent announcement requesting qualified troopers to apply for available positions at the academy, ten responses were received and eight were chosen. When the monitoring team asked if the small number of applicants was representative of the usual response, the monitoring team was told that usually forty to fifty applicants apply thereby providing a much larger selection pool.

Two major reasons for the small number of applicants appear to be:

1. Very limited career track opportunities due to the loss of five sergeant first class positions at the Academy;
2. A growing awareness among the troops that the understaffing at the academy, and the lack of staffing stability result in heavy workloads for those who are trying to meet the division’s training obligations.

This problem directly affects the issue of quality, reflects the continued lack of attention to this problem over several years, and now places the state out of compliance on this task. The monitoring team has repeatedly addressed the staffing problem in five previous reports, so the State has had ample warning about the progression of the impact that this issue has on academy responsibilities and on the quality of training that can be produced by a limited number of people.

Trooper Coach Staff

As an incentive to encourage superior troopers to apply to the coaching program, the New Jersey State Police has implemented a revised performance evaluation instrument that is linked to promotion decisions. The successful performance in the trooper coach program will be noted as an extraordinary assignment that will positively affect the potential for promotion within the division because the coach's responsibilities include direct supervision, performance planning, etc. which are required attributes for a supervisor.

This is a positive step in encouraging superior troopers to apply to the program.

Sixty applicants applied to the request for trooper coach applicants and the selection process was underway during the site visit. There is also a pool of approximately 100 qualified coaches who worked with previous recruit classes who can be tapped as necessary. The State remains in compliance for the trooper coach program based on the number of applicants, and the number of recruits who require coaching services.

The State is judged to be non-compliant with this task due to issues of recruiting Academy staff. The parties have been advised by the monitors that once compliance is attained, two reporting periods of non-compliance are required to lose compliance status. The monitors have repeatedly warned the State about staffing issues at the Academy, and continue to be concerned about an apparent under-staffing there. Inadequate staffing has created problems with Task 97 this reporting period. Continued problems with this Task 97 will result in loss of compliance for the task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.70 Compliance with Task 98: Formal Eligibility Criteria for Training Personnel

Task 98	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	In Compliance											
Phase II	In Compliance											
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Task 98 stipulates that:

98. The state shall establish formal eligibility and selection criteria for all academy, post-academy, and trooper coach training positions. These criteria shall apply to all incumbent troopers in these training positions and to all candidates for these training positions, and also shall be used to monitor the performance of persons serving in these positions. The criteria shall address, inter alia, knowledge of State Police policies and procedures, interpersonal and communication skills, cultural and community sensitivity, teaching aptitude, performance as a law enforcement trooper, experience as a trainer, post-academy training received, specialized knowledge, and commitment to police integrity.

Methodology:

A member of the monitoring team spoke with academy staff responsible for this task; audited academy trainers' records; audited trooper coach records; and interviewed the training staff currently responsible for oversight for this program.

Status

Academy Trainers

The monitoring team audited forty-seven trainer's records. All were in good order and contained the required documentation. With the addition of a document clarifying the outcome of the meaningful review, the documentation trail for this process is complete.

Trooper Coaches

The selection process for new coaches was underway during this site visit, so no new records were available for auditing. A random review of the inactive coaching records demonstrated that the files contained the required documentation related to the meaningful review.

The monitoring team will conduct the annual audit of the new coaches' records on the next site visit. This audit will include records for any operational personnel

who have been given the authority to substitute as a coach when, for whatever reason, the appointed coach is unavailable to the probationary trooper.

Compliance

Academy Personnel
 Phase I: In Compliance
 Phase II: In Compliance

Trooper Coach Personnel
 Phase I: In Compliance
 Phase II: In Compliance

2.71 Compliance with Task 99: Training for Academy Instructors

Task 99	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 99 stipulates that:

99. The State Police shall ensure that all troopers serving as an academy or post-academy instructor, or as a trooper coach, receive adequate training to enable them to carry out their duties, including training in adult learning skills, leadership, teaching, and evaluation. All training instructors and trooper coaches shall be required to maintain, and demonstrate on a regular basis, a high level of competence. The state shall document all training instructors' and trooper coaches' proficiency and provide additional training to maintain proficiency.

Methodology:

A member of the monitoring team spoke with academy staff responsible for implementing this task and reviewed the academy personnel files for trainers.

Status

Academy Instructors

An audit of academy trainer files demonstrates that performance evaluations are being conducted according to division policy and that all trainers are performing well.

Trooper Coach

The selection process for the new trooper coaches was in process during this site visit. Documentation related to training and evaluations of the new coaches will be audited on the next site visit. The required documentation is part of the inactive coach files.

Compliance:

Academy/Post-Academy

Instructors

Phase I: In Compliance

Phase II: In Compliance

Trooper Coaches

Phase I: In Compliance

Phase II: In Compliance

2.72 Compliance with 100: Training in Cultural Diversity

Task 100	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 100 stipulates that:

100. The State Police shall continue to train all recruits and troopers in cultural diversity, which shall include training on interactions with persons from different racial, ethnic, and religious groups, persons of the opposite sex, persons having a different sexual orientation, and persons with disabilities; communication skills; and integrity and ethics, including the duties of truthfulness and reporting misconduct by fellow troopers, the importance of avoiding misconduct, professionalism, and the duty to follow civilian complaint procedures and to cooperate in misconduct investigations. This training shall be reinforced through mandatory annual in-service training covering these topics.

Methodology:

A member of the monitoring team spoke with academy staff responsible for implementing this task, and also to staff at the Office of State Police Affairs who are responsible for oversight for all consent decree tasks.

Status

Cultural Awareness

This is mandatory annual in-service training program. The last training was completed in November 2002. Documentation for that training was reviewed during the last site visit and found to be in good order.

The In-service Unit staff is in the planning phase for the next training on this topic. One very innovative idea is to have members of the division actually go into the community and to interact (as stated in the consent decree language for this task) for a day with members of the community. This would allow the trooper the actual experience of meeting with people to identify their concerns and their perceptions about the New Jersey State Police, and, hopefully through their interactions, to leave the community with a positive perception. This idea takes training out of the classroom and into the real world that troopers interact in everyday.

The value of following the training cycle that the academy now employs to develop training is that the evaluations received from the participants, and the revisions required to the curriculum based upon those evaluations, guide the academy staff in developing a progressively superior training product for each successive course.

Ethics/Integrity

This is a mandatory annual in-service training program. The last training was completed in November 2002. Documentation for that training was reviewed during the last site visit and found to be in good order with the exception that a total of 396 personnel listed as on active duty did not attend the training. Upon further investigation, it was found that many of these troopers were not on active duty, but were on some form of restricted duty that precluded their attending training. Please see task 101 for an explanation of the process that has been instituted to prevent this problem from recurring.

This task is in compliance and is not due for monitoring until May 2004, the date for the first site visit after the next annual training is completed.

The academy training staff is in the planning stages for the next mandated training on this topic.

Compliance:

Phase I:	In compliance
Phase II:	In compliance

2.73 Compliance with Task 101: Recruit and In-Service Training on Fourth Amendment and Non-Discrimination Requirements

Task 101	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 101 stipulates that:

101. The State Police shall continue to provide recruit and annual in-service training on Fourth Amendment requirements. In addition, the state shall provide training on the non-discrimination requirements of this Decree as part of all academy and in-service patrol-related and drug-interdiction-related training, including training on conducting motor vehicle stops and searches and seizures. An attorney designated by the Attorney General's Office shall participate in the development and implementation of this training.

Methodology:

A member of the monitoring team spoke with Academy staff responsible for implementing this task.

Status

This is a mandatory annual in-service and the last training was completed in November 2002. Documentation for that training was reviewed during the last site visit and found to be in good order with the exception that a total of 173 personnel listed as on active duty had not attended the training.

Follow-up on this issue revealed that the majority of these personnel were not on active duty, or were on restricted light duty (working only 4 hours/day and unable to attend training which was at least eight or more hours).

The monitoring team received written documentation that those on active duty have completed the required training, and an oversight process is now in place to prevent a recurrence of this problem.

A new process has been developed to address the issue of troopers being listed on the after action report as non-attendees. The process is as follows:

1. After all training sessions on a given topic are complete, the registrar's office will print an after action report and send it to the In-Service Unit.
2. In-service staff has set up procedures with Human Resources to determine who is on active-duty, light-duty, or off-duty.
3. The names of the active-duty and appropriate light-duty non-attendees will be forwarded up the chain of command to Division Staff and then through the Operations Division and down to the field training officer or liaison who will notify staff who did not attend that they must contact In-Service to schedule a time to makeup the training. There will be a cutoff deadline for the completion of the training, but the In-Service staff will schedule a time that is convenient for the trooper to review the videotape of missed training.
4. The trooper will complete the test for the training under supervision in the In-Service Unit.
5. When the deadline for completing training is reached, a second after action report will be generated by the registrar and sent to In-Service.
6. Any names appearing on the list will be forwarded to the Office of Police Standards for follow-up.

This appears to be an excellent process to address what was a major administrative nightmare for the Academy. The monitoring team will carefully audit the next round of annual in-service training to insure that this process is functioning properly.

Compliance: In-Service	Recruit
Phase I: In Compliance	In Compliance
Phase II: In Compliance	In Compliance

2.74 Compliance with Task 102: Training Protocols for the Trooper Coach Process

Task 102	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 102 stipulates that:

102. Before the next recruit class graduates from the State Police academy, the State Police shall adopt a protocol regarding its trooper coach program. The

protocol shall address the criteria and method for selecting trooper coaches, the training provided to trooper coaches to perform their duties, the length of time that probationary troopers spend in the program, the assignment of probationary troopers to trooper coaches, the substance of the training provided by trooper coaches, and the evaluation of probationary trooper performance by trooper coaches. Prior to implementation, the protocol shall be approved by the Independent Monitor and the United States.

Methodology:

Methodology

A member of the monitoring team spoke with academy staff responsible for implementing this task and audited documentation related to the coaching program.

Status

A change in the selection process was made in that the essay requirement totaling 20 of the 100 possible points was withdrawn from the process. Therefore, the previous value of three points placed on each of the interview questions was assigned a value of five points, and the oral board criteria previously weighted at 30 was changed to 50. A new set of questions has been developed for the interview process.

In addition, the academy staff person responsible for this program noted that the change to a 12-hour workday would result in a loss of 36 hours of observation time for the probationary trooper and the coach. As a result the coaching program has been extended from nine weeks to 12 weeks to recover the lost time. This is an example of excellent, proactive oversight provided by the program coordinator.

The issue of probationary troopers remaining on extended coaching status for competency issues which occurred with two probationary troopers in past recruit classes has not been resolved. The final decision regarding the solution to this issue lies outside the responsibility of the Academy, but nevertheless should be acted upon by the administration.

After the last site visit, the monitoring team was told that the Academy staff and the Office of State Police Affairs were conducting an assessment to determine what processes need to be instituted at the troop level, at the Academy level, at

the Division level, and within the Office of State Police Affairs to address this issue.

The purpose of the coaching program is to be sure that probationary troopers are fit for service. Some provision must be made for how to release probationary troopers from the New Jersey State Police if they prove unfit during the coaching program, and this must be memorialized in SOP F12. (The new protocol, per the consent decree, must be reviewed by Department of Justice and the Independent Monitor prior to implementation.)

This issue was raised on the two previous site visits and has not been resolved. There are four recruit classes graduating before the next site visit—two in June and two in October—and the problem could arise again with a member of these classes. The State is placed under warning that if no resolution is reached by the next (ninth) site visit in October 2003 that the State will be placed out of compliance on this task.

Compliance:

Phase I: In Compliance
Phase II: In Compliance

2.75 Compliance with 103: Provision of Copies of the Decree to all State Troopers

Task 103	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 103 stipulates that:

103. The State Police shall as soon as practicable provide copies and explain the terms of this Decree to all state troopers and employees in order to ensure that they understand the requirements of this Decree and the necessity for strict compliance. After the state has adopted new policies and procedures in compliance with this Decree, the state shall provide in-service training to every state trooper regarding the new policies and procedures and the relevant provisions of this Decree.

The state shall incorporate training on these policies and procedures into recruit training at the State Police Academy.

Methodology:

The monitoring team spoke with staff responsible for this task.

Status

The New Jersey State Police achieved compliance in September 2000, and has maintained that compliance.

Revisions to policy for consent decree related tasks are handled by notification of specific division personnel at the quarterly Training Committee meetings and through IOCs.

The revised SOP C25 is about to be approved and disseminated for the first time since the consent decree was begun. It is clearly not an SOP that requires training for every trooper as it is specific to in-service training, but it does have broad implications for operations and specialized units in the area of post-academy training. It is important that when managers at the station, troop and executive management level receive their copy of this new SOP that they read and understand the impact and the implications on their staff.

It is also important that they understand that a greater degree of more direct involvement with the academy staff will be occurring due to the implementation of several levels of the regional training initiative. Some of the new training positions that are being filled by operational staff will be dedicated to training issues, and some will be divided between training and operational responsibilities.

Though there has been no need to audit this task regularly after initial compliance was achieved, the introduction of this important SOP does now require an effort by the academy to be sure that specific New Jersey State Police personnel have received, read, and understand this policy. The monitoring team will request documentation verifying how this occurred and how it was documented prior to the next site visit.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.76 Compliance with 104: Systems Improvement Processes for Police Training

Task 104	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 104 stipulates that:

104. The state shall establish systems for State Police units, sub-units, and supervisors to provide information and refer particular incidents to the Training Bureau to assist the Training Bureau in evaluating the effectiveness of training and to detect the need for new or further training.

Methodology:

A member of the monitoring team reviewed internal memoranda and spoke with Academy staff responsible for implementing this task.

Status

During this site visit a final draft of SOP C25 was completed and forwarded to the Independent Monitors and the Superintendent for review. The monitors' review requires the addition of language defining the responsibility of academy staff for auditing the training functions of the field operations personnel who are engaged in training and evaluation services as part of the regional training program. This should include a process that will be followed if any deficiencies in performance are noted. With the recommended addition of language to C 25 cited above, Phase I compliance is achieved.

In the interim, between site visits, the Academy's In-service Unit has undertaken a comprehensive organizational assessment to determine the basic training needs throughout the agency. The acquisition and analyses of this information, and any other that the academy deems necessary, is essential to design and develop a comprehensive process that is able "... to provide information and refer particular incidents to the Training Bureau to assist the Training Bureau in evaluating the effectiveness of training and to detect the need for new or further training." The training committee and the intranet bulletin board continue to

address the requirements of this task. The impact of the regional training initiative is still uncertain.

The regional training structure is still being developed, albeit in a piecemeal manner, and those staffing the new training positions at the various troops and stations have yet to receive training for the specialized training tasks that they are required to perform. An oversight process to assure and maintain the quality of the training cycle phases occurring in the field is not yet complete. When the system is fully functional and the monitoring team is able to audit its processes, compliance for Phase II will be determined on the next site visit.

Compliance:

Phase I: In compliance
 Phase II: Not in Compliance

2.77 Compliance with 105: Provision of Training for Supervisors

Task 105	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 105 stipulates that:

105. The State Police shall provide all supervisors with mandatory supervisory and leadership training which (in addition to the subjects addressed in ¶¶100 and 101) shall address effective supervisory techniques to promote police integrity and prevent misconduct. The State Police shall provide the initial training required by this paragraph within one year from entry of the Decree and thereafter shall provide supervisory training on an annual basis.

A member of the monitoring team spoke with academy staff responsible for this task, and reviewed the revisions made to the curriculum since the last site visit.

Status

In the last site visit report (seventh report), the monitoring team had three concerns regarding the curriculum. Below are the concerns and a description of how they were resolved by the New Jersey State Police.

1. One of the major roles of supervisors under the consent decree is that of change-agent. They must develop strategies to change performance. Information about the steps in the change process and how to manage change is very important and is presently not included in this course.

Resolution:

This topic was addressed by expanding the role of the supervisor block of training to incorporate this topic and to also address progressive discipline.

2. Supervisors are the liability gatekeepers because liability arises from performance that does not comply with federal, state or case law, or with division policy and procedure. Data indicate that the majority of liability issues are related to a small number of policies related to high-risk law enforcement tasks. Though some of these tasks are addressed in this course in various blocks of training (domestic violence, use of force, sexual harassment, search and seizure, citizen complaints), the importance of the liability issue with the attendant liability implications for supervisors requires a more focused and comprehensive approach to this topic.

Resolution:

A one-hour training block titled, "First Line Supervisor—Civil Liability Gatekeeper," was developed. A revised lesson plan addressed the critical liability issue of sexual and workplace harassment, and a detailed lesson plan on pursuit driving which included pursuit decision-making issues, before and during a pursuit, was also submitted for review.

3. The role of the sergeant's supervisor is not addressed in the training, and some information about the roles, responsibilities, and expectations for the most immediate source of help to the sergeant is important. The effectiveness of a subordinate at any rank can be enhanced or diminished by the performance of the immediate supervisor. What organizational avenues are open to a sergeant if he or she finds an immediate supervisor unresponsive?

Resolution:

A two-hour round table discussion with two lieutenants, a station commander and a specialized unit lieutenant, has been introduced into

each course. A free exchange of information is occurring and the round table is often lasting longer than two hours.

The lieutenants who have been requested to fill this role have received the invitation based upon feedback from sergeants about lieutenants whom they respect and admire, and would like to have address them during the round table.

In the most recent supervisors' training, the majors from operations and from division staff spoke to class on leadership issues.

A new block of training on hazing has been added to the supervisor training based upon some recent incidents occurring in the field. Requests to sit in on this training are coming from other units, such as the employee assistance unit.

The use of the round table discussion to fulfill this training concern is an outstanding example of building understanding between ranks and of mentoring newly promoted sergeants. It also provides a venue for well-respected and highly competent and committed lieutenants to receive acknowledgement for being exemplars of their rank.

The development of the hazing unit by academy staff demonstrates a rapid response to a newly identified issue that is of immediate concern to all levels of management, but especially to first line supervisors. The academy staff is to be commended in fulfilling their oversight responsibility in a timely and flexible manner.

These topics will be included in the annual supervisory leadership training for those sergeants who completed this training prior to these revisions being completed.

The training for "supervisors" which was interpreted by the monitoring team to include the lieutenants in the last site visit report has been amended due to the implementation of the new Executive Development Unit. The structure and assigned responsibilities of this unit are resulting in a redundancy in addressing tasks 105 and 106. For the purpose of this report, only training for sergeants will be considered in assessing compliance for task 105, and the responsibility for the lieutenants training will be considered under task 106.

The academy staff have been advised that they should develop a document outlining the impact of the Executive Development Unit on the division of training responsibilities for supervisors and managers in tasks 105 and 106 and submit a

plan/request for how to clarify these issues to the Independent Monitors prior to the next site visit in October 2003.

With the revisions that the academy has made to the supervisory curriculum, it is now at a level that demonstrates compliance. The monitoring team commends the Academy staff for developing responses that are both effective and innovative (lieutenant's round table), for a heightened awareness of its oversight function, and a demonstration of how to exercise its oversight responsibility by providing training in a timely manner to address a new issue (hazing block) within the agency.

Compliance:

Phase I: In Compliance
Phase II: In Compliance

2.78 Compliance with Task 106: Training for Newly Promoted State Troopers

Task 106	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 106 stipulates that:

106. The state shall design and implement post-academy training programs for all state troopers who are advancing in rank. The state shall require troopers to successfully complete this training, to the extent practicable, before the start of the promoted trooper's service in his or her new rank, and in no event later than within six months of the promoted trooper's service in his or her new rank.

Methodology:

A member of the monitoring team spoke with academy staff responsible for this task. No materials were provided to the monitoring team indicating that any promotions were made since the last site visit, though some were occurring during, or just prior to the site visit. The monitoring team reviewed a proposed curriculum for lieutenants' training, and a two-hour lesson plan and memorandum related to that course.

Status

The New Jersey State Police took a major step in addressing this task by forming an Executive Development Training Unit at the Academy and staffing it with five troopers dedicated solely to developing training for all ranks of supervision and management. All this was finalized just one week before this site visit. The unit is currently in a staff development/team-building phase and preparing to begin the needs assessment (first stage in the training cycle) for this task. It is apparent that this group could use some staff development training especially in the areas of strategic planning, curriculum development, creative problem solving/critical thinking skills, and survey/test construction to launch them on their way with the specialized training that they need in order to be successful. They certainly have the enthusiasm and the dedication to their mission and the support of the other units at the Academy in their effort. The structure and the staff are now in place to provide the dedicated attention required for this highly important task, one that will impact on the culture of the organization and the productivity and performance of all its members.

The monitoring team was provided with a 40-hour course outline for senior sergeants first class and newly promoted lieutenants, and a memorandum dated November 20, 2002 related to the outline. This information was developed when the responsibility for this course was assigned to the social sciences unit, and has no supporting documentation to demonstrate that a thorough needs assessment was conducted, though the memo does indicate that the course was designed with input from upper-level managers related to their concerns about mid-level managers. The curriculum includes one evening of classroom discussion and one evening of class participation in a critical incident scenario.

Though there may be an urgency to bring this task into compliance, the importance of executive training cannot be overemphasized. To do a good job requires a complete needs assessment and analysis, and time in the planning phase in order to develop a good training product. The monitoring team estimates that curriculum development for all executive ranks could be completed by the next (ninth) site visit scheduled for October bringing this task into phase I compliance, and that training could be accomplished by the following or tenth site visit in May, 2004 bringing this task into phase II compliance. There are other non-training consent decree tasks that remain out of compliance (MAPPS) for various reasons, so the lack of compliance of this important task is not delaying total compliance for all tasks. Though the monitoring team understands the sense of urgency to bring this task into compliance soon, it also cautions that the training cycle must be followed and that the assessment and planning phase can be lengthy.

Compliance

Phase I: Not In Compliance
Phase II: Not In Compliance

1.79 Compliance with Task 107: Provision of Specialized Training

Task 107	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 107 stipulates that:

107. The state shall design and implement post-academy training programs for all state troopers who are newly assigned to a State Police troop, station, or assignment where specialized training is necessary in order to perform the assigned duties.

Methodology:

The monitoring team spoke with academy staff responsible for developing and delivering this training, and reviewed documents addressing this task.

Status

The parties have agreed that Task 107 applies to law enforcement personnel who are returning to patrol from specialized assignments. The 40-hour course titled "Transitional Training," is now used to address this task, and it addresses patrol-related topics and consent decree related topics.

The regional training initiative has created some positions in the stations and the troop headquarters so an increased need for other specialized training may be identified, as well as specialized training that have previously been provided without the academy's oversight that require auditing for adherence to the current training standards.

No new documentation related to this topic was presented to the monitors during this site visit.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.80 Compliance with 108: Inclusion of Training Data in MAPPs Program

Task 108	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 108 stipulates that:

108. The State Police shall continue to maintain records documenting all training of state troopers. As part of the MAP, the State Police will track all training information, including name of the course, date started, date completed, and training location for each member receiving training. The MAP will maintain current and historical training information.

Members of the monitoring team spoke with academy staff responsible for implementing this task, and with staff utilizing the information now generated by ACTS.

Status

As noted in the last monitor's report, spending time with the data management unit would be a priority on this site visit. The focus was to be on the various types of analyses that could be conducted with the computerized system; the process for distributing that information to members of the academy; the utilization of pertinent data for planning, training development, and oversight; and the integration of the data management unit into the overall training cycle.

What the monitoring team found was a unit no longer properly staffed and unable to remain current with data entry let alone address any of the issues in the previous paragraph.

Within the past year, this unit has lost two computer technology staff, one technology consultant, and three clerical positions. The director is the only informational technology expert left. By his report, he spends 25% of his time working outside the academy on the development of the agency's counter-terrorism distance learning program. This is certainly an appropriate use of his

time, but his absence, the two vacant technology positions left by trooper transfers that were never refilled, and the loss of the technology consultant leave the academy without the expertise required in this area.

Two clerical staff work in this unit, one of whom is often out sick and unable to work at full capacity when present, along with three temporary staff who have been replaced several times as they leave for other jobs. These staff provide phone coverage and do data entry, with the senior member supervising the others.

At least 75 percent of the director's time currently dedicated to the academy is devoted to scheduling, staffing, supervision, hiring (temps), providing classroom support for instructors regarding technology issues (computers, intranet, internet issues), procuring and maintaining technology equipment and software, managing data entry, managing training data (class lists, testing material, curricula, lesson plans, etc.), teaching the basic computer class for recruits and advanced classes to include use of the computer and the appropriate software, and maintaining and troubleshooting the servers.

Report data entry is beginning to fall behind. The ability to run comparative analyses could be developed but there is no available staff time to conduct this function. Staff are unable to liaison with programming units (in-service, pre-service etc.) as they refine or develop new curricula, and this at a time when regionalizing training demands alternative learning techniques that utilize computer technology.

The above discussion related to two units at the academy, the data management unit and the new compliance/assessment evaluation unit. The responsibilities of each unit, while different, certainly overlap in some areas.

A focus of the next monitoring will be on how the organization addresses the staffing needs of both units, on the type of staff development that is provided to new staff (if they are ever assigned) to prepare them for their tasks, at how the entire data management, on the data analysis functions that are being utilized by the various units at the academy, and at how this units are interfacing with the regional training initiative where training data management and analysis are also now occurring.

Based upon the fact that the data entry for training classes is not current and is falling behind (due to lack of qualified staff), the state is placed under warning for phase I compliance. The monitoring team will not be able to assess total compliance with this task until the MAPPS program is functional. The

responsibility for completion of the MAPPS system does not reside with the academy.

The monitoring team attended a meeting with the MAPPS Unit to update the monitors on the activities of this unit. Mention was made of training provided to the stations involved in the beta tests of the system, and a brief conversation occurred about including the Academy in this training to be sure that it meets the designated standards. Also, discussions included a recommendation to contact the Academy for discussions about providing preliminary training to all ranks involved in be using the MAPPS system prior to its full implementation within the division. The monitoring team will follow-up on this during the next site visit to be sure that the Academy is providing oversight.

Compliance

Phase I: In Compliance
 Phase II: Not In Compliance

2.81 Compliance with Task 109: Establishment of a Central Repository for Training Records

Task 109	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 109 stipulates that:

109. The State Police shall maintain in a central repository copies, of all academy, post-academy and trooper coach training materials, curricula, and lesson plans.

Methodology:

A member of the monitoring team spoke with academy personnel responsible for this task.

Status

All curricula and lesson plans developed by the academy are maintained in a central repository at the Academy. All trooper coach training materials, curricula, and lesson plans are maintained in a central repository at the academy.

All post academy training materials, curricula, and lesson plans developed by academy staff are maintained in a central repository at the academy. Post academy training materials, curricula, and lesson plans developed by units within the New Jersey State Police, but outside the academy **are not** all maintained in a central repository at the academy at the present time. Steps have been implemented by the In-Service Unit to identify and obtain the required materials. Post academy training materials, curricula, and lesson plans that troopers receive at external training attended by New Jersey State Police personnel **are not** all maintained in a central repository at the academy.

The In-Service Section at the academy is in the assessment phase of identifying post-academy training that is being provided at the troop level or in specialized units within the division, and any type of external training attended by New Jersey State Police personnel. This effort has not met with a comprehensive or timely response from the organization in the past, but a move to regionalize training **could** provide a vehicle that would allow the Academy to provide more thorough oversight for post academy training. This depends upon how the regional training is structured.

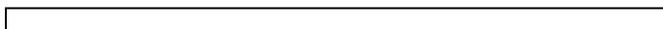
The responsibility for quality and oversight of such training is required by the consent decree. The State is placed under warning for Phase I and Phase II compliance based on the need to resolve the issues of oversight and documentation of regionalized training,

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.82 Compliance with Task 110: Creation of the Office of State Police Affairs

Task 110	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												



Task 110 stipulates that:

110. The Attorney General of New Jersey shall create an Office of State Police Affairs ("office"). The office shall have the responsibility to ensure implementation of the terms of this Consent Decree and provide coordination with the Independent Monitor and the United States concerning the State Police and matters related to the implementation of the Consent Decree. An Assistant Attorney General shall head the office. The office's responsibilities shall include auditing the manner in which the State receives, investigates, and adjudicates misconduct allegations; auditing the State Police's use of MAP data; and auditing state trooper performance of the motor vehicle stop requirements discussed in the Consent Decree. The office also shall be responsible for providing technical assistance and training regarding these matters. The office shall have such additional responsibilities as may be assigned by the State Attorney General.

Methodology:

Members of the monitoring team have interviewed the majority of personnel assigned to the Office of State Police Affairs and have discussed with them their assigned duties, have seen samples of the work product they have created in developing the State's responses to the requirements of the decree, and have queried them regarding their understanding of their roles in developing the State's response to the decree.

Status

Based on the monitoring team's review of work product, and information obtained during the process of implementing the eighth site visit, it is clear to the members of the monitoring team that the State is in compliance with this task. Not all duties assigned to the Office of State Police Affairs have been completed as of the eighth site visit. For example, members of the Office of State Police Affairs cannot audit the use of the MAPPS program until the program is functioning. The office does, however, provide coordination with the monitors and the Department of Justice, and the office is headed by an Assistant AG. The office routinely audits the process of managing misconduct investigations, and routinely audits performance on MVS processes. These audits consist of on-site reviews, basically replicating those engaged in by the monitoring team, with

samples of MVSR and MVR recordings reviewed by OSPA personnel. Problems are noted and remedial measures are recommended. Technical assistance and training is provided routinely by the office regarding these matters. The mechanism and duty assignments, however, exist to complete the duties of the office as soon as practicable, given the implementation schedule of the State's compliance efforts.

The seventh monitors' report stated "OSPA's audit process began in August, the last month for which electronic data were available to the monitoring team, thus, many of the problems noted by the monitoring team this period had not been "pre-audited" by OSPA. The monitors anticipate that a strong comparison between monitoring team assessments and OSPA assessments will be available next reporting period." Indeed, the monitors have found that expectation to be true. OSPA audit functions are identifying virtually the same problems as the monitoring team. OSPA continues to be a partner in change with the New Jersey State Police.

Phase II compliance with this task is dependent upon implementation of the MAPPS.

Compliance

Phase I: In Compliance
 Phase II: Unable to Monitor

2.83 Compliance with Task 111: Audits of Motorists Subjected to Motor Vehicle Stops

Task 111	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	In Compliance											
Phase II	Unable to Monitor											

Task 111 stipulates that:

111. The office shall implement an auditing system for contacting a sample of persons who were the subject of motor vehicle stops and enforcement actions and procedures connected to a motor vehicle stop, to evaluate whether state troopers conducted and documented the incidents in the manner prescribed by State Police rules, regulations, procedures, and directives, and the requirements of this Decree.

Methodology:

Members of the monitoring team have reviewed the Office of State Police Affairs procedure entitled "Procedure for Contacting Motorist Subjected to Motor Vehicle Stops" and have discussed the office's role in compliance with this task with office personnel.

Status

The office has developed and disseminated a procedure for compliance with this task, and has implemented its first audit of this process. Members of the monitoring team have reviewed the State's report in response to this task. A total of more than 10,000 motorists stopped by New Jersey State Police troopers were identified, and letters were mailed to a sample of these individuals requesting that they contact the New Jersey State Police regarding their stops. The State continues to receive survey responses from these motorists. The audit process has resulted in three referrals during the sixth reporting period to OPS based on information obtained through the internal audit. To date 143 responses to the contact letters have been received, with 139 individuals reportedly being treated "courteously and professionally" by State Police personnel. Follow-up contacts with the four individuals who indicated that they were not treated "courteously and professionally" have been made in three of these four cases. These three respondents complained about "demeanor," and no referrals to OPS were made as a result. This process continues to be a troublesome requirement for the State, with response rates to mailed questionnaires remaining below thirty percent, not unusual for processes of this sort.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.84 Compliance with Task 112: Internal Audits of Citizen Complaint Processes

Task 112	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	Blue											
Phase II	Yellow/Black Diagonal											

Task 112 stipulates that:

112. The office's audits of the receipt, investigation, and adjudication of misconduct allegations shall include audits of the tapes of the complaint/comment toll-free telephone hotline established by ¶162; the use of testers to evaluate whether complaint intake procedures are being followed; audits of audio tape and videotape interviews produced during the course of misconduct investigations; and interviews of a sample of persons who file misconduct complaints, after their complaints are finally adjudicated.

Methodology:

Members of the monitoring team have reviewed audit reports for Office of State Police Affairs personnel who have conducted internal audits of the compliment/complaint hotline and audits of the telephone hotline.

Status

Documentation reviewed by members of the monitoring team reflect a proactive and effective internal audit of the misconduct investigation process. No issues were noted by OSPA audits requiring policy, training or operational changes in the internal investigations process. Enhancement of oversight, however, appears warranted. The monitors found two troubling investigations this reporting period that were not noted by OSPA. This audit was not consistent with the findings of the monitoring team's review of completed internal investigations. OSPA's audit process includes post adjudication interviews of complainants, asking questions regarding the complainant's perception of the internal affairs investigation process. For the second time, the monitors have returned completed OPS cases, reviewed by OSPA, for additional work. These two cases were returned for:

- Failure to use a proper case disposition; and
- Failure to aggressively investigate allegations of misconduct.

An error rate of 2 of 104 cases constitute 1.9 percent, within the allowable margin of error for this task.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.85 Compliance with Task 113: Full and Unrestricted Access for the Office of State Police Affairs

Task 113	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 113 stipulates that:

113. The office shall have full and unrestricted access to all State Police staff, facilities, and documents (including databases) that the office deems necessary to carry out its functions.

Methodology:

Members of the monitoring team observed the personnel from the Office of State Police Affairs during the course of the site visit during the week of May 19th, 2003.

Status

Based on the team's observations, members of the Office of State Police Affairs have full and unrestricted access to all State Police staff, facilities and documents.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.86 Compliance with Task 114: Publication of Semi-Annual Reports of Aggregate Traffic Stop Statistics

Task 114	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 114 stipulates that:

114. The State Police shall prepare semiannual public reports that include aggregate statistics on State Police traffic enforcement activities and procedures broken down by State Police station and the race/ethnicity of the civilians involved. These aggregate statistics shall include the number of motor vehicle stops (by reason for motor vehicle stop), enforcement actions (including summonses, warnings, and arrests) and procedures (including requests for consent to search, consent searches, non-consensual searches, and uses of force) taken in connection with or during the course of such stops. The information regarding misconduct investigations shall include, on a statewide basis, the number of external, internal, and total complaints received and sustained by category of violation. The information contained in the reports shall be consistent with the status of State Police record keeping systems, including the status of the MAP computer systems. Other than expressly provided herein, this paragraph is not intended, and should not be interpreted, to confer any additional rights to information collected pursuant to this Decree.

Methodology:

The State has produced its latest "Semi-Annual Public Report of Aggregate Data," in response to this provision of the decree.

Status

Members of the monitoring team have reviewed the latest report entitled "Semi-Annual Public Report of Aggregate Data," prepared by the Office of State Police Affairs, and found it to be responsive to the requirements of the decree.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.87 Compliance with Task 115: Appointment of Independent Monitor

Task 115	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												
Eighth Independent Monitors' Report												

Task 115 stipulates that:

115. Within ninety (90) days after the entry of this Decree, the State and the United States shall together select an Independent Monitor who shall monitor and report on the State's implementation of this Decree. The Monitor shall be acceptable to both parties. If the parties are unable to agree on an Independent Monitor, each party shall submit two names of persons who have experience as a law enforcement officer, as a law enforcement practices expert or monitor, or as a federal, state, or county prosecutor or judge along with resumes or curricula vitae and cost proposals to the Court, and the Court shall appoint them Monitor from among the names of qualified persons submitted. The State shall bear all costs of the Monitor, subject to approval by the Court.

Methodology:

Members of the monitoring team reviewed the order from United States District Court Judge Mary L. Cooper, appointing an independent monitoring team on March 30, 2000.

Status

The State is judged to remain in compliance with this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.88 Compliance with Task 118: Full and Unrestricted Access for Monitors

Task 118	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 118 stipulates that:

118. The State shall provide the Monitor with full and unrestricted access to all State staff, facilities, and non-privileged documents (including databases) necessary to carry out the duties assigned to the Monitor by this Decree. In the event of an objection, the Court shall make the final determination regarding access. In any instance in which the State objects to access, it must establish that the access sought is not relevant to monitoring the implementation of the Consent Decree, or that the information requested is privileged and the interest underlying the privilege cannot be adequately addressed through the entry of a protective order. In any instance in which the State asserts that a document is privileged, it must provide the United States and the Monitor a log describing the document and the privilege asserted. Notwithstanding any claim of privilege, the documents to which the Monitor shall be provided access include: (1) all State Police documents (or portions thereof) concerning compliance with the provisions of this Decree, other than a request for legal advice; and (2) all documents (or portions thereof) prepared by the Office of the Attorney General which contain factual records, factual compilations, or factual analysis concerning compliance with the provisions of this Decree. Other than as expressly provided herein, with respect to the Independent Monitor, this paragraph is not intended, and should not be interpreted to reflect a waiver of any privilege, including those recognized at common law or created by State statute, rule or regulation, which the State may assert against any person or entity other than the Independent Monitor.

Methodology:

Members of the monitoring team were accorded full and unrestricted access while on-site with personnel from the New Jersey State Police and the Office of State Police Affairs. Some data requested during the fifth site visit regarding training and evaluation of training processes was either not provided in a timely manner or was provided in a manner that made access and comprehension difficult, causing the monitoring team to find the State not in compliance with some of the consent decree's training requirements. No similar problems have been noted since the sixth monitors' report.

Status

All documents requested by the monitoring team have been provided in a timely and well-organized manner. All data reviewed by the monitors have been kept in a fashion that allows retention, retrieval and assessment.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.89 Compliance with Task 120: State Police to Reopen Internal Investigations Determined to be Incomplete

Task 120	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 120 stipulates that:

120. Subject to the limitations set forth in this paragraph, the State Police shall reopen for further investigation any misconduct investigation the Monitor determines to be incomplete. The Monitor shall provide written instructions for completing the investigation. The Monitor shall exercise this authority so that any directive to reopen an investigation is given within a reasonable period following the investigation's conclusion. The Monitor may not exercise this authority concerning any misconduct investigation which has been adjudicated or otherwise disposed, and the disposition has been officially communicated to the trooper who is the subject of the investigation.

Methodology:

Members of the monitoring team have reviewed a memorandum from the commander, Office Professional Standards to personnel within the office, requiring conformance with this task by members of the Office Professional Standards.

Status

The office is in Phase I compliance with this task. A total of 104 of 175 completed cases were reviewed this reporting period. Two cases were selected by the monitoring team for return. Five cases were returned during the last reporting period, and the State agreed to “reopen” those cases that have not been communicated to the troopers or which have “collateral misconduct” allegations noted by the monitors that require investigation and that were not investigated in the original case. The monitors also expect the State to use these cases returned as learning tools, to avoid similar problems in the future. The monitors have provided the State with detailed analyses of these cases, and a discussion of the observed deficiencies. Phase II compliance was achieved by return of the five cases to the monitors once the additional investigative processes had been completed. The monitors were satisfied with the additional actions taken on those cases.

A similar process will be followed this reporting period for “returned” cases, and the results of these returns will be reported in the ninth monitors’ report.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.90 Compliance with Task 122: State to File Routine Progress Reports

Task 122	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 122 stipulates that:

122. Between ninety (90) and one hundred twenty (120) days following entry of this Consent Decree and every six months thereafter until this Consent Decree is terminated, the State shall file with the Court and the Monitor, with a copy to the United States, a status report delineating all steps taken during the reporting period to comply with each provision of this Consent Decree.

Methodology:

Members of the monitoring team have reviewed the State's submission "Progress/Status Summary of the Consent Decree," filed by the State in response to this task.

Status

The report submitted by the State, in the opinion of the monitor, complies with the requirements of this task.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.91 Compliance with Task 123: State to Maintain all Necessary Records

Task 123	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Bar]											
Phase II	[Bar]	[Bar]	[Bar]	[Bar]	[Bar]							

Task 123 stipulates that:

123. During the term of this Consent Decree, the State shall maintain all records documenting its compliance with the terms of this Consent Decree and all documents required by or developed under this Consent Decree. The State shall maintain all misconduct investigation files for at least ten years from the date of the incident. The State Police shall maintain a troopers' training records and all personally-identifiable information about a trooper included in the MAP, during the trooper's employment with the State Police. Information necessary for aggregate statistical analysis shall be maintained indefinitely in the MAP for statistical purposes. MVR tapes shall be maintained for 90 days after the incidents recorded on a tape, except as follows: any MVR tape that records an incident that is the subject of an pending misconduct investigation or a civil or criminal proceeding shall be maintained at least until the misconduct investigation or the civil or criminal proceeding is finally resolved. Any MVR tape that records an incident that is the subject of a substantiated misconduct investigation, or an incident that gave rise to

any finding of criminal or civil liability, shall be maintained during the employment of the troopers whose conduct is recorded on the tape.

Methodology:

Members of the monitoring team requested for review numerous documents, records, recordings and other information during the course of the team's site visit during May, 2003.

Status

All documents requested by the monitoring team have been provided in a timely and well-organized manner. All data reviewed by the monitors has been kept in a fashion that allows retention, retrieval and assessment.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.92 Compliance with Task 124: Unrestricted Access for the Department of Justice

Task 124	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 124 stipulates that:

124. During all times while the Court maintains jurisdiction over this action, the United States shall have access to any State staff, facilities and non-privileged documents (including databases) the United States deems necessary to evaluate compliance with this Consent Decree and, within a reasonable time following a request made to the State attorney, shall, unless an objection is raised by the State, be granted such access and receive copies of documents and databases requested by the United States. In the event of an objection, the Court shall make a final determination regarding access. In any instance in which the State objects to access, it must establish that the access sought is not relevant to monitoring the implementation

of the Consent Decree, or that the information requested is privileged and the interest underlying the privilege cannot be adequately addressed through the entry of a protective order. In any instance in which the State asserts that a document is privileged, it must provide the United States and the Monitor a log describing the document and the privilege asserted. Notwithstanding any claim of privilege, the documents to which the United States shall be provided access include: (1) all State Police documents (or portions thereof) concerning compliance with the provisions of this Decree, other than a request for legal advice; and (2) all documents (or portions thereof) prepared by the Office of the Attorney General which contain factual records, factual compilations, or factual analysis concerning compliance with the provisions of this Decree. Other than as expressly provided herein with respect to the United States, this paragraph is not intended, and should not be interpreted to reflect a waiver of any privilege, including those recognized at common law or created by State statute, rule or regulation, which the State may assert against any person or entity other than the United States.

Methodology:

Members of the monitoring team discussed the level of access provided by the state with Department of Justice personnel assigned to this case.

Status

The State is in compliance with this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

3.0 Executive Summary

This report is the eighth to assess the levels of compliance of the State of New Jersey and the New Jersey State Police with the requirements of a consent decree agreed to in 1999 by the State of New Jersey and the United States Department Justice. The State has been working to gain compliance for more than three years, with mostly positive results. Significant progress continues to be made; however, the monitors note the similarity of issues identified this reporting period with those identified during the seventh reporting period.

The monitors have noted six issues that continue to confront the State Police as they move toward compliance with the decree.

1. Continued progress in improving on-road performance of State Police personnel (and supervisor practices) relating to traffic stop activities;
2. Continued strong performance in investigation of citizens' complaints by the Office of Professional Standards;
3. Continued progress—accompanied by continued issues—in developing a strong supervisory process to review and improve consent decree-related law enforcement practices at State Police road stations;
4. Continued progress—albeit much delayed—in bringing the Management Awareness and Police Performance System (MAPPS) on-line throughout the New Jersey State Police;
5. Continued change at the highest levels of the New Jersey State Police and the Office of State Police Affairs; and
6. Continued issues related to organizing, staffing and overseeing the activities of the State Police training academy.

The monitors' observations *do not* indicate a lack of progress this reporting period. To the contrary, significant progress has been made by the State in moving toward compliance this period. The remaining issues to be resolved, however, are the same issues identified during the seventh reporting period: change, on-road performance, supervision, MAPPS, and training.

1. On-Road Performance

The New Jersey State Police continue to make improvements in the protocols used to ensure on-road performance in processes related to the consent decree. The performance of road troopers is now reviewed by five levels of audit and quality control compliance processes: first-line supervision, a field operations supervisory review cadre, review by quality assurance bureau personnel, review by personnel at OSPA, and review by the monitors. These performance review and assessment processes have resulted in dramatic reductions of instances in which the State Police make errors that result in Constitutional infringements, e.g., illegal searches, improper consent requests, improper frisks, etc. During the eighth reporting period, the monitors noted eight motor vehicle stops that involved a Constitutional question (in seven instances, frisks that were improperly conducted or documented). That number was reduced from ten in the fifth reporting period, 13 in the sixth reporting period and 14 in the seventh reporting period. During the fifth reporting period, **91 percent** of all errors noted by the monitors included potential Constitutional violations. During the sixth reporting period, **65 percent** of all errors involved potential Constitutional

violations. During the seventh reporting period, **42 percent** of all errors involved potential Constitutional violations. This reporting period, seven of 46 errors (only **15 percent**) involved Constitutional issues. Perhaps more importantly, the monitors found **no problems** with consent search requests, canine deployments or use of force incidents this period. While the State has not yet reached full compliance with the consent decree in the area of on-road law enforcement procedures, the majority of errors being noted by the monitors are **procedural**, not Constitutional.

2. Office of Professional Standards

The Office of Professional Standards (OPS) continues to perform strongly. The Office of Professional Standards is in compliance with 31 of the 32 consent decree tasks relating to OPS. The 32nd task, requiring implementation of appropriate discipline in consultation with MAPPS, cannot be complied with by OPS until MAPPS is operational. The quality of OPS investigations remains strong. Staffing appears to be appropriate, as the State is meeting its requirement of completing all OPS investigations within 120 days. The OPS "hot-line" continues to be operational, effectively monitored, and accessible to citizens. Management and supervision of the Office continues to be strong, yielding strong compliance scores for OPS across the vast majority of the tasks assigned to it. OPS has been in compliance longer than any other State entity.

3. Supervisory Processes

Supervision of on-road performance has obviously improved this reporting period. One of the major difficulties noted for the last five monitors' reports was the degree to which supervisory personnel were missing key failures in the motor vehicle stop procedures required by the New Jersey State Police. The supervisory failure rate (calculated by identifying reporting failures or protocol violations by road personnel and identifying the number of times supervisory personnel note these failures or violations) ranged from 100 percent (in the fifth report) to only 19 percent (in this report). Supervisory personnel (among the four levels of review now provided by the New Jersey State Police) are noting 81 percent of on-road failures by New Jersey State Police law enforcement personnel. This improvement reflects revised training, initiation of multiple levels of review, and, finally, a successful "operationalization" of the concept of supervisor review among New Jersey State Police supervisory personnel. While the percentage of successful supervisory reviews falls short of the required 95 percent, it is an appreciable improvement from previous performance.

4. MAPPS

In the last several months, more progress has been made in developing a final plan for MAPPS than in the previous two years. The State, after the close of the eighth monitoring period, forwarded to the monitors and the Department of Justice a "final" draft plan for MAPPS. The monitors have reviewed this document, and have approved it with minor reservations, none of which directly affect compliance. The plan submitted calls for completion of an automated MVR review system, problem-solving and remediation of known existing "bugs" in the automated system, revisions to scatter diagrams, completion of the "intervention" subsystem, and completion of the "counts" subsystem. The existing plan calls for a complete MAPPS implementation for Field Operations by January 2004. Compliance with this schedule, with a substantial implementation of MAPPS within Field Operations by October 15, 2003 (the date of the next monitoring field observation visit) is required to avoid losing Phase I compliance with all MAPPS tasks.

5. Change at the Top

Change at the top continues to be an issue, with the State appointing the third Superintendent of the State Police during the eighth reporting period. The new Superintendent has met with members of the monitoring team on multiple occasions, and the monitors are convinced that the new Superintendent understands and is committed to the consent decree in ways not previously seen by the monitors. We view the selection and appointment as a positive indication for future performance. Nonetheless, the change generated yet another pause-assessment-planning phase, the third in the life of the decree, although the monitors concede that this pause may be somewhat attenuated due to the fact that the newly appointed Superintendent comes from within the ranks and is familiar with the consent decree and the State's efforts to comply with its requirements. Similarly, a new Director of the Office of State Police Affairs (OSPA) has taken the reins at OSPA. As with the new Superintendent, the monitors are convinced that this new appointment portends continued success at the Office. Change is not always negative; however, each change at the highest levels of the organizations charged with leading the State's consent decree compliance efforts has resulted in a hesitation as the new personnel assess the status of compliance efforts, identify needed changes, and implement new (or revised) compliance efforts.

6. Training Academy

The monitors have expressed concern about academy staffing, both informally (since the second reporting period) and formally (since the delivery of the decree-required monitors' assessment of training during the second reporting period). The monitors, at the time they delivered their training evaluation in the

second reporting period, expressed a concern that the academy was understaffed given the tasks expected of the training process as compliance with the decree was pursued. This sentiment was relayed to the then Superintendent, the then-Attorney General, and members of the Office of State Police Affairs. In the fifth monitors' report, the monitors noted that areas of non-compliance at the Academy were due "the monitoring team believes, to significant levels of understaffing at the academy" (IMR 5, p. 93). The monitors reminded the State, in the fifth monitoring report, that they had raised concerns about academy staffing in their second-quarter training evaluation, and further noted: "The concerns of the monitoring team have now, it appears, come to fruition. Given the crush of development and delivery work, and an extremely limited staff with which to meet heightened demands, the management staff of the academy have chosen to develop and deliver at the expense of the remaining phases of the training process: needs assessment, evaluation and documentation" (IMR 5, p. 93). In the sixth monitors' report, the monitors noted continued problems with compliance at the academy "due to significant levels of understaffing at the academy and to protracted delays in providing the academy staff with the resources necessary" (IMR 6, p. 96). In the seventh monitors' report, the monitors continued to express concern about academy staffing levels.

Since the monitors have raised the issue of staffing with the State, staff assigned to the Academy has actually *declined*. During the eighth reporting period, the monitors found the State in non-compliance with an additional task, Task 97, a loss of compliance directly attributable, in the monitors' view, to a failure to adequately staff the academy. Obviously, the issue of staffing at the academy has not been resolved, and is beginning to affect compliance with the decree.

In addition, the monitors noted in this period's report the fact that training is being developed by the State without notice to, or collaboration with, personnel at the Academy. The monitors have received no notice from the State that responsibility for training development and oversight has been moved from the academy. As such, the consent decree requires that training development include an "oversight and evaluation" component from academy personnel. Further, it appears that training is being developed, and in some cases delivered, without adherence to the required needs assessment, documentation, evaluation phases identified in the monitors' training assessment report, delivered during the second reporting period.